

108TH CONGRESS
1ST SESSION

S. 1486

To amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

IN THE SENATE OF THE UNITED STATES

JULY 29 (legislative day, JULY 21), 2003

Mr. CHAFEE (for himself and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “POPs, LRTAP POPs, and PIC Implementation Act of
4 2003”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

Sec. 101. Implementation of international agreements.

“TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

“Sec. 501. Definitions.

“Sec. 502. Implementation of POPs Convention and LRTAP POPs Pro-
tocol.

“Sec. 503. Notice and record of prohibitions, exemptions, disallowances,
and other information.

“Sec. 504. International conventions and cooperation in international ef-
forts.

“Sec. 505. Exports.

“Sec. 506. Judicial review.”.

Sec. 102. Exports.

Sec. 103. Prohibited acts.

Sec. 104. Conforming amendments.

TITLE II—USE OR PRODUCTION OF POPS PESTICIDES

Sec. 201. Definitions.

Sec. 202. Registration of pesticides.

Sec. 203. Unlawful acts.

Sec. 204. Imports, exports, and international conventions.

Sec. 205. Conforming amendments.

7 **TITLE I—IMPLEMENTATION OF**
8 **INTERNATIONAL AGREEMENTS**

9 **SEC. 101. IMPLEMENTATION OF INTERNATIONAL AGREE-**
10 **MENTS.**

11 The Toxic Substances Control Act (15 U.S.C. 2601
12 et seq.) is amended by adding at the end the following:

1 **“TITLE V—IMPLEMENTATION OF**
2 **INTERNATIONAL AGREEMENTS**

3 **“SEC. 501. DEFINITIONS.**

4 “In this title:

5 “(1) CONFERENCE.—The term ‘Conference’
6 means the Conference of the Parties established by
7 paragraph 1 of Article 19 of the POPs Convention.

8 “(2) CONFERENCE LISTING DECISION.—The
9 term ‘Conference listing decision’ means a decision
10 by the Conference to approve an amendment to list
11 a chemical substance or mixture in Annex A or B
12 to the POPs Convention.

13 “(3) DESIGNATED NATIONAL AUTHORITY.—The
14 term ‘designated national authority’ means the 1 or
15 more authorities that a government has designated
16 in a notification to the Secretariat of the PIC Con-
17 vention in accordance with Article 4 of the PIC Con-
18 vention.

19 “(4) EXECUTIVE BODY.—The term ‘Executive
20 Body’ means the Executive Body established by Ar-
21 ticle 10 of the LRTAP Convention.

22 “(5) HCH.—The term ‘HCH’ means
23 hexachlorocyclohexane.

24 “(6) LRTAP CONVENTION.—The term
25 ‘LRTAP Convention’ means the Convention on

1 Long-Range Transboundary Air Pollution, done at
2 Geneva on November 13, 1979 (TIAS 10541), if the
3 United States is a party.

4 “(7) LRTAP POPS CHEMICAL SUBSTANCE OR
5 MIXTURE.—The term ‘LRTAP POPs chemical sub-
6 stance or mixture’ means—

7 “(A) chlordecone;

8 “(B) hexabromobiphenyl;

9 “(C) HCH; and

10 “(D) any other chemical substance or mix-
11 ture that is listed in Annex I or II to the
12 LRTAP POPs Protocol.

13 “(8) LRTAP POPS LISTING DECISION.—The
14 term ‘LRTAP POPs listing decision’ means a deci-
15 sion by the parties to the LRTAP POPs Protocol to
16 approve an amendment to list a chemical substance
17 or mixture in Annex I or II to the LRTAP POPs
18 Protocol.

19 “(9) LRTAP POPS PROTOCOL.—The term
20 ‘LRTAP POPs Protocol’ means the Protocol on Per-
21 sistent Organic Pollutants to the LRTAP Conven-
22 tion, done at Aarhus on June 24, 1998, if the
23 United States is a party.

24 “(10) PCB.—The term ‘PCB’ means a poly-
25 chlorinated biphenyl.

1 “(11) PIC CONVENTION.—The term ‘PIC Con-
 2 vention’ means the Rotterdam Convention on the
 3 Prior Informed Consent Procedure for Certain Haz-
 4 ardous Chemicals and Pesticides in International
 5 Trade, done at Rotterdam on September 10, 1998,
 6 if the United States is a party.

7 “(12) POPS CHEMICAL SUBSTANCE OR MIX-
 8 TURE.—The term ‘POPs chemical substance or mix-
 9 ture’ means—

- 10 “(A) aldrin;
- 11 “(B) chlordane;
- 12 “(C) dichlorodiphenyltrichloroethane
- 13 (DDT);
- 14 “(D) dieldrin;
- 15 “(E) endrin;
- 16 “(F) heptachlor;
- 17 “(G) hexachlorobenzene;
- 18 “(H) mirex;
- 19 “(I) PCBs;
- 20 “(J) toxaphene; and
- 21 “(K) any other chemical substance or mix-
- 22 ture that is listed in Annex A or B to the POPs
- 23 Convention.

24 “(13) POPS CONVENTION.—The term ‘POPs
 25 Convention’ means the Stockholm Convention on

1 Persistent Organic Pollutants, done at Stockholm on
2 May 22, 2001, if the United States is a party.

3 “(14) POPs REVIEW COMMITTEE.—The term
4 ‘POPs Review Committee’ means the Persistent Or-
5 ganic Pollutants Review Committee established
6 under paragraph 6 of Article 19 of the POPs Con-
7 vention.

8 **“SEC. 502. IMPLEMENTATION OF POPs CONVENTION AND**
9 **LRTAP POPs PROTOCOL.**

10 “(a) PROHIBITION ON SPECIFIED POPs CHEMICAL
11 SUBSTANCES AND MIXTURES AND LRTAP POPs CHEM-
12 ICAL SUBSTANCES AND MIXTURES.—Subject to sub-
13 sections (c), (d), and (i) and the relevant provisions of the
14 POPs Convention and the LRTAP POPs Protocol, not-
15 withstanding any other provision of law, a person shall
16 not manufacture, process, distribute in commerce for ex-
17 port, use, or dispose of any of the following:

18 “(1) A POPs chemical substance or mixture
19 specified in any of subparagraphs (A) through (J) of
20 section 501(12).

21 “(2) A LRTAP POPs chemical substance or
22 mixture specified in any of subparagraphs (A)
23 through (C) of section 501(7).

24 “(b) PROHIBITION ON OTHER POPs CHEMICAL SUB-
25 STANCES AND MIXTURES AND LRTAP POPs CHEMICAL

1 SUBSTANCES AND MIXTURES.—Subject to subsections
 2 (c), (d), and (i), notwithstanding any other provision of
 3 law, a person shall not manufacture, process, distribute
 4 in commerce for export, use, or dispose of a POPs chem-
 5 ical substance or mixture described in section 501(12)(K),
 6 or a LRTAP POPs chemical substance or mixture de-
 7 scribed in 501(7)(D), in a manner that is inconsistent
 8 with regulations promulgated under subsection (h).

9 “(c) EXEMPTIONS UNDER POPs CONVENTION.—

10 “(1) IN GENERAL.—The prohibitions specified
 11 in subsection (b) shall not apply to any manufacture,
 12 processing, distribution in commerce for export, use,
 13 or disposal of a POPs chemical substance or mixture
 14 that the Administrator (with the concurrence of the
 15 Secretary of State) determines, through final regula-
 16 tions promulgated under subsection (h)—

17 “(A) is consistent with—

18 “(i) a production or use specific ex-
 19 emption available to the United States
 20 under Annex A or B to the POPs Conven-
 21 tion; or

22 “(ii) an acceptable purpose applicable
 23 to the United States under Annex B to the
 24 POPs Convention; and

1 “(B) would, as a result, not prevent the
2 United States from complying with the obliga-
3 tions of the United States under the POPs
4 Convention.

5 “(2) UNINTENTIONAL TRACE CONTAMI-
6 NANTS.—To the extent consistent with the POPs
7 Convention, the prohibitions specified in subsections
8 (a) and (b) shall not apply to any quantity of a
9 POPs chemical substance or mixture that occurs as
10 an unintentional trace contaminant in a product or
11 article.

12 “(3) RESEARCH.—To the extent consistent with
13 the POPs Convention, the prohibitions specified in
14 subsections (a) and (b) shall not apply to any quan-
15 tity of a POPs chemical substance or mixture that
16 is used for laboratory scale research or as a ref-
17 erence standard.

18 “(4) CONSTITUENT OF ARTICLE IN USE BE-
19 FORE PROHIBITION APPLIED.—To the extent con-
20 sistent with the POPs Convention, the prohibitions
21 specified in subsections (a) and (b) shall not apply
22 to any quantity of a POPs chemical substance or
23 mixture that occurs as a constituent of an article,
24 if—

1 “(A) the article is manufactured or in use
2 on or before the date of entry into force of the
3 obligation applicable to the POPs chemical sub-
4 stance or mixture; and

5 “(B) the United States has met any appli-
6 cable requirement of the POPs Convention to
7 notify the Secretariat of the POPs Convention
8 concerning the article.

9 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-
10 MEDIATE.—

11 “(A) EXEMPTION.—

12 “(i) IN GENERAL.—Subject to clause
13 (ii), to the extent consistent with the POPs
14 Convention, the prohibitions specified in
15 subsections (a) and (b) shall not apply to
16 any quantity of a POPs chemical sub-
17 stance or mixture that is—

18 “(I) manufactured and used as a
19 closed-system site-limited inter-
20 mediate; and

21 “(II) chemically transformed in
22 the manufacture of other chemicals
23 that do not exhibit the characteristics
24 of persistent organic pollutants (tak-
25 ing into consideration the criteria in

1 paragraph 1 of Annex D of the POPs
2 Convention).

3 “(ii) CONDITIONS.—Clause (i) applies
4 if, before the commencement of the manu-
5 facture or use under the POPs Convention,
6 and each 10-year period thereafter—

7 “(I) any person that desires to
8 invoke the exemption provides to the
9 Administrator information con-
10 cerning—

11 “(aa) the annual total quan-
12 tity of the POPs chemical sub-
13 stance or mixture anticipated to
14 be manufactured or used or a
15 reasonable estimate of the quan-
16 tity; and

17 “(bb) the nature of the
18 closed system site-limited proc-
19 ess, including the quantity of any
20 nontransformed and uninten-
21 tional trace contamination by the
22 POPs chemical substance or mix-
23 ture that remains in the final
24 product; and

1 “(II) notwithstanding any other
2 provision of law, the Administrator—

3 “(aa) determines, with the
4 concurrence of the Secretary of
5 State, that the information pro-
6 vided under subclause (I) is com-
7 plete and sufficient; and

8 “(bb) transmits the informa-
9 tion to the Secretariat of the
10 POPs Convention.

11 “(B) TERMINATION OF EXEMPTION.—If,
12 at the termination of any 10-year exemption pe-
13 riod under subparagraph (A), a particular
14 closed-system site-limited intermediate exemp-
15 tion is no longer authorized for the United
16 States under the POPs Convention, it shall be
17 unlawful for any person to continue to manu-
18 facture or use any such POPs chemical sub-
19 stance or mixture as a closed-system site-lim-
20 ited intermediate.

21 “(6) PCB MATERIALS.—Any person that man-
22 ages PCBs in compliance with the rules promulgated
23 under section 6(e) shall be—

24 “(A) considered to be in compliance with
25 this title; and

1 “(B) presumed to be consistent with the
2 POPs Convention, unless the Administrator de-
3 termines that the applicable rule promulgated
4 under section 6(e) is inconsistent with the
5 POPs Convention.

6 “(7) DISTRIBUTION IN COMMERCE FOR EXPORT
7 IF PRODUCTION OR USE SPECIFIC EXEMPTION OR
8 ACCEPTABLE PURPOSE IS IN EFFECT.—

9 “(A) IN GENERAL.—To the extent con-
10 sistent with the POPs Convention, the prohibi-
11 tions specified in subsections (a) and (b) shall
12 not apply to any distribution in commerce for
13 export of any POPs chemical substance or mix-
14 ture for which a production or use specific ex-
15 emption under Annex A to the POPs Conven-
16 tion available to the United States is in effect,
17 or for which a production or use specific exemp-
18 tion or acceptable purpose under Annex B to
19 the POPs Convention available to the United
20 States is in effect, unless the POPs chemical
21 substance or mixture does not comply with an
22 export condition described in—

23 “(i) subparagraph (B), as determined
24 by the Administrator in consultation with

1 the heads of other interested Federal agen-
2 cies; or

3 “(ii) subparagraph (C) or (D), as de-
4 termined by the Administrator in consulta-
5 tion with the heads of other interested
6 Federal agencies and with the concurrence
7 of the Secretary of State and the United
8 States Trade Representative.

9 “(B) EXPORT FOR ENVIRONMENTALLY
10 SOUND DISPOSAL.—An export condition re-
11 ferred to in subparagraph (A) is that the POPs
12 chemical substance or mixture is exported for
13 the purpose of environmentally sound disposal
14 in accordance with paragraph 1(d) of Article 6
15 of the POPs Convention.

16 “(C) EXPORT TO PARTY WITH PERMISSION
17 TO USE.—An export condition referred to in
18 subparagraph (A) is that the POPs chemical
19 substance or mixture is exported to a party to
20 the POPs Convention that is permitted to use
21 the POPs chemical substance or mixture under
22 Annex A or B to the POPs Convention.

23 “(D) EXPORT TO NONPARTY THAT HAS
24 PROVIDED NONPARTY CERTIFICATION.—

1 “(i) IN GENERAL.—An export condi-
2 tion referred to in subparagraph (A) is
3 that the POPs chemical substance or mix-
4 ture is exported to an importing foreign
5 state that—

6 “(I) is not a party to the POPs
7 Convention with respect to the POPs
8 chemical substance or mixture; and

9 “(II) has provided an annual cer-
10 tification to the Administrator.

11 “(ii) COMMITMENTS BY IMPORTING
12 NONPARTY.—Consistent with the POPs
13 Convention, an annual nonparty certifi-
14 cation under clause (i) shall specify the in-
15 tended use of the POPs chemical substance
16 or mixture and state that, with respect to
17 the POPs chemical substance or mixture,
18 the importing nonparty is committed to—

19 “(I) protecting human health and
20 the environment by taking necessary
21 measures to minimize or prevent re-
22 leases;

23 “(II) complying with paragraph
24 1(d) of Article 6 of the POPs Conven-
25 tion; and

1 “(III) complying, to the extent
2 appropriate, with paragraph 2 of Part
3 II of Annex B to the POPs Conven-
4 tion.

5 “(iii) SUPPORTING DOCUMENTA-
6 TION.—Each nonparty certification shall
7 include any appropriate supporting docu-
8 mentation, such as legislation, regulatory
9 instruments, and administrative or policy
10 guidelines.

11 “(iv) SUBMISSION TO SECRETARIAT
12 OF POPS CONVENTION.—Not later than 60
13 days after the date of receipt of a complete
14 nonparty certification, the Administrator
15 shall submit a copy of the nonparty certifi-
16 cation to the Secretariat of the POPs Con-
17 vention.

18 “(8) EXPORT FOR ENVIRONMENTALLY SOUND
19 DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-
20 EMPTION IN EFFECT.—To the extent consistent with
21 the POPs Convention, the prohibitions specified in
22 subsections (a) and (b) shall not apply to any dis-
23 tribution in commerce for export for the purpose of
24 environmentally sound disposal, in accordance with
25 paragraph 1(d) of Article 6 of the POPs Convention,

1 of a POPs chemical substance or mixture listed in
2 Annex A to the POPs Convention for which no pro-
3 duction or use specific exemption is in effect for any
4 party to the POPs Convention.

5 “(9) IMPORTS FOR SPECIFIED PURPOSES.—To
6 the extent consistent with the POPs Convention, the
7 prohibitions specified in subsections (a) and (b) shall
8 not apply to a POPs chemical substance or mixture
9 that is imported for the purpose of environmentally
10 sound disposal in accordance with paragraph 1(d) of
11 Article 6 of the POPs Convention.

12 “(10) WASTE.—To the extent consistent with
13 the POPs Convention, the prohibitions specified in
14 subsections (a) and (b) shall not apply to any quan-
15 tity of a POPs chemical substance or mixture, in-
16 cluding any article that consists of, contains, or is
17 contaminated with a POPs chemical substance or
18 mixture, that has become waste and that is managed
19 in a manner consistent with Article 6 of the POPs
20 Convention.

21 “(11) NO EFFECT ON OTHER PROHIBITIONS.—
22 Nothing in this subsection authorizes any manufac-
23 ture, processing, distribution in commerce for ex-
24 port, use, or disposal of a POPs chemical substance

1 or mixture that is prohibited under any other provi-
2 sion of law.

3 “(d) EXEMPTIONS UNDER LRTAP POPs PRO-
4 TOCOL.—

5 “(1) IN GENERAL.—To the extent consistent
6 with the LRTAP POPs Protocol, the prohibitions on
7 manufacture, processing, distribution in commerce
8 for export, or use specified in subsections (a) and
9 (b) shall not apply to—

10 “(A) any manufacture, processing, dis-
11 tribution in commerce for export, or use of a
12 LRTAP POPs chemical substance or mixture
13 that the Administrator determines (with the
14 concurrence of the Secretary of State), through
15 final regulations promulgated in accordance
16 with subsection (h)—

17 “(i) is consistent with an allowed re-
18 stricted use or condition available to the
19 United States under Annex I or II to the
20 LRTAP POPs Protocol; and

21 “(ii) would, as a result, not prevent
22 the United States from complying with the
23 obligations of the United States under the
24 LRTAP POPs Protocol;

1 “(B) any quantity of a LRTAP POPs
2 chemical substance or mixture that is used for
3 laboratory scale research or as a reference
4 standard;

5 “(C) any quantity of a LRTAP POPs
6 chemical substance or mixture that occurs as a
7 contaminant in a product;

8 “(D) any quantity of a LRTAP POPs
9 chemical substance or mixture that is in an ar-
10 ticle manufactured or in use on or before—

11 “(i) the implementation date of any
12 applicable obligation of the LRTAP POPs
13 Protocol; or

14 “(ii) in the case of any LRTAP POPs
15 chemical substance or mixture added to
16 any applicable Annex after the implemen-
17 tation date of the applicable obligation of
18 the LRTAP POPs Protocol, the implemen-
19 tation date in the amendment to the
20 LRTAP POPs Protocol that makes the ad-
21 dition;

22 “(E) any quantity of a LRTAP POPs
23 chemical substance or mixture that occurs as a
24 site-limited chemical intermediate in the manu-

1 facture of 1 or more different substances and
2 that is subsequently chemically transformed;

3 “(F) the production or use of any quantity
4 of HCH that complies with the restrictions and
5 conditions specified for HCH in Annex II to the
6 LRTAP POPs Protocol;

7 “(G) any quantity of a LRTAP POPs
8 chemical substance or mixture that has become
9 waste and that is disposed of in an environ-
10 mentally sound manner in accordance with
11 paragraph 1(b) of Article 3 of the LRTAP
12 POPs Protocol;

13 “(H) any distribution in commerce for ex-
14 port of a LRTAP POPs chemical substance or
15 mixture if the distribution in commerce for ex-
16 port is conducted in an environmentally sound
17 manner; or

18 “(I) any import of a LRTAP POPs chem-
19 ical substance or mixture if the import is con-
20 ducted in an environmentally sound manner.

21 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
22 Administrator, with the concurrence of the Secretary
23 of State, may grant an exemption from the prohibi-
24 tions applicable to LRTAP POPs chemical sub-
25 stances or mixtures specified in subsection (a) or (b)

1 that the Administrator determines are consistent
2 with the exemptions authorized under paragraph 2
3 of Article 4 of the LRTAP POPs Protocol.

4 “(3) EXEMPTIONS BY PETITION.—

5 “(A) PETITIONS.—A person may petition
6 the Administrator for an exemption from a pro-
7 hibition applicable to LRTAP POPs chemical
8 substances or mixtures specified in subsection
9 (a) or (b) that is consistent with the exemptions
10 authorized under paragraph 2 of Article 4 of
11 the LRTAP POPs Protocol.

12 “(B) REQUIRED ELEMENTS OF PETI-
13 TIONS.—Any petition under subparagraph (A)
14 shall, at a minimum, contain—

15 “(i) information relating to each find-
16 ing, if any, that the Administrator is re-
17 quired to make under the LRTAP POPs
18 Protocol before granting the exemption;
19 and

20 “(ii) any additional information, if
21 any, that the Administrator is required to
22 provide to the Secretariat of the LRTAP
23 POPs Protocol concerning a granted ex-
24 emption.

1 “(C) GRANT OR DENIAL OF PETITION.—

2 The Administrator, with the concurrence of the
3 Secretary of State, shall—

4 “(i) if the petition is authorized for
5 the United States under, and is otherwise
6 consistent with, the LRTAP POPs Pro-
7 tocol, grant the petition with such condi-
8 tions or limitations as are necessary to
9 meet any requirement of the LRTAP
10 POPs Protocol or any other provision of
11 law; or

12 “(ii) deny the petition.

13 “(4) PROVISION OF INFORMATION TO SECRE-
14 TARIAT.—Notwithstanding any other provision of
15 law, if the Administrator grants an exemption under
16 this subsection, the Administrator, not later than 90
17 days after the date on which the exemption is grant-
18 ed, shall provide the Secretariat of the LRTAP
19 POPs Protocol with the information specified in
20 paragraph 3 of Article 4 of the LRTAP POPs Pro-
21 tocol.

22 “(5) DISALLOWANCE OF EXEMPTION BY LRTAP
23 POPS PROTOCOL.—

24 “(A) IN GENERAL.—If, after an exemption
25 has been granted under this subsection, the ex-

1 emption is no longer authorized by the United
2 States under the LRTAP POPs Protocol, it
3 shall be unlawful for any person to manufac-
4 ture, process, distribute in commerce for export,
5 or use a LRTAP POPs chemical substance or
6 mixture in the manner authorized by the ex-
7 emption.

8 “(B) PUBLICATION OF NOTICE IN FED-
9 ERAL REGISTER.—The Administrator shall pub-
10 lish in the Federal Register a notice announcing
11 the disallowance of any exemption under sub-
12 paragraph (A).

13 “(6) NO EFFECT ON OTHER PROHIBITIONS.—
14 Nothing in this subsection authorizes any manufac-
15 ture, processing, distribution in commerce for ex-
16 port, or use of a LRTAP POPs chemical substance
17 or mixture that is prohibited under any other provi-
18 sion of law.

19 “(e) NOTICE AND REPORT AFTER DECISION THAT
20 SCREENING CRITERIA ARE MET UNDER POPs CONVEN-
21 TION OR AFTER RISK PROFILE SUBMITTED UNDER
22 LRTAP POPs PROTOCOL.—

23 “(1) APPLICABILITY.—This subsection applies
24 if—

1 “(A) the POPs Review Committee or Con-
2 ference decides—

3 “(i) under paragraph 4(a) of Article 8
4 of the POPs Convention, that a proposal
5 for listing a chemical substance or mixture
6 in Annex A, B, or C to the POPs Conven-
7 tion fulfills the screening criteria specified
8 in Annex D to the POPs Convention; or

9 “(ii) under paragraph 5 of Article 8
10 of the POPs Convention, that such a pro-
11 posal shall proceed; or

12 “(B) if a party to the LRTAP POPs Pro-
13 tocol submits to the Executive Body a risk pro-
14 file in support of a proposal to list a chemical
15 substance or mixture in Annex I, II, or III to
16 the LRTAP POPs Protocol.

17 “(2) REQUIREMENT.—Not later than 45 days
18 after the date of the POPs Review Committee or
19 Conference decision on a proposal or the submission
20 of a risk profile in support of a proposal under the
21 LRTAP POPs Protocol described in subparagraph
22 (A) or (B) of paragraph (1), respectively, the Ad-
23 ministrator shall—

24 “(A) publish in the Federal Register a no-
25 tice of the proposal; and

1 “(B) provide opportunity for comment on
2 the proposal.

3 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
4 tice under paragraph (2) shall—

5 “(A) identify the chemical substance or
6 mixture that is the subject of the proposal;

7 “(B) include a summary of the process
8 under the POPs Convention or the LRTAP
9 POPs Protocol for submission of a proposal and
10 listing of a chemical substance or mixture that
11 is the subject of a proposal (including criteria
12 applied in that process);

13 “(C) include a summary of the POPs Re-
14 view Committee or Conference decision and the
15 basis for the decision;

16 “(D) request information relevant to and
17 comment on—

18 “(i) in the case of a chemical sub-
19 stance or mixture proposed for listing in
20 an Annex to the POPs Convention, the in-
21 formation requirements and screening cri-
22 teria elements covered under Annex D to
23 the POPs Convention; and

24 “(ii) in the case of a chemical sub-
25 stance or mixture proposed for listing in

1 an Annex to the LRTAP POPs Protocol,
 2 the information referenced in paragraph
 3 6(a) of Article 14 of the LRTAP POPs
 4 Protocol;

5 “(E) request the information required
 6 under paragraph (4);

7 “(F) include any other information that
 8 the Administrator considers to be relevant to
 9 the proposal;

10 “(G) include a statement that any infor-
 11 mation submitted will be part of the record
 12 used as the basis for rulemaking that the Ad-
 13 ministrator may undertake under this title; and

14 “(H) request information and comment
 15 on—

16 “(i) information relevant to the risk
 17 profile of the POPs Review Committee cov-
 18 ered under Annex E to the POPs Conven-
 19 tion; and

20 “(ii) information relevant to any tech-
 21 nical review conducted under paragraph 2
 22 of Executive Body decision 1998/2.

23 “(4) PROVISION OF INFORMATION.—

24 “(A) PROVISION OF INFORMATION UNDER
 25 POPS CONVENTION.—Not later than 60 days

1 after the date of publication of the notice under
2 paragraph (2) regarding a proposal to list a
3 chemical substance or mixture on an Annex of
4 the POPs Convention, any person that manu-
5 factures, processes, distributes in commerce for
6 export, or disposes of a chemical substance or
7 mixture that is the subject of the notice shall
8 provide (and any other interested person may
9 provide) to the Administrator information (to
10 the extent the information is known or readily
11 obtainable to the person) on—

12 “(i) the annual quantity of the chem-
13 ical substance or mixture that the person
14 manufactures and the locations of the
15 manufacture;

16 “(ii) the uses of the chemical sub-
17 stance or mixture;

18 “(iii) the approximate annual quantity
19 of the chemical substance or mixture that
20 the person releases into the environment;
21 and

22 “(iv) other information or monitoring
23 data relating to the chemical substance or
24 mixture that is consistent with the infor-
25 mation specified in paragraph 1 of Annex

1 D, and subsections (b) through (e) of
2 Annex E, to the POPs Convention.

3 “(B) PROVISION OF INFORMATION UNDER
4 LRTAP POPS PROTOCOL.—Not later than 60
5 days after the date of publication of the notice
6 under paragraph (2) regarding a proposal to
7 list a chemical substance or mixture on an
8 Annex of the LRTAP POPs Protocol, any per-
9 son that manufactures, processes, distributes in
10 commerce for export, or disposes of a chemical
11 substance or mixture that is the subject of the
12 notice shall provide (and any other interested
13 person may provide) to the Administrator infor-
14 mation (to the extent the information is known
15 or readily obtainable to the person) on—

16 “(i) the potential for long-range
17 transboundary atmospheric transport of
18 the chemical substance or mixture;

19 “(ii) the toxicity of the chemical sub-
20 stance or mixture;

21 “(iii) the persistence of the chemical
22 substance or mixture, including biotic deg-
23 radation processes and rates and degrada-
24 tion products;

1 “(iv) the bioaccumulation of the chem-
2 ical substance or mixture, including bio-
3 availability;

4 “(v) the annual quantity of the chem-
5 ical substance or mixture that the person
6 manufactures and the locations of the
7 manufacture;

8 “(vi) the uses of the chemical sub-
9 stance or mixture;

10 “(vii) the approximate annual quan-
11 tity of the chemical substance or mixture
12 that the person releases into the environ-
13 ment;

14 “(viii) environmental monitoring data
15 relating to the chemical substance or mix-
16 ture (in areas distant from sources);

17 “(ix)(I) information on alternatives to
18 the uses of the chemical substance or mix-
19 ture and the efficacy of each alternative;
20 and

21 “(II) information on any known ad-
22 verse environmental or human health ef-
23 fects associated with each alternative;

24 “(x) information on—

1 “(I) process changes, control
2 technologies, operating practices, and
3 other pollution prevention techniques
4 that can be used to reduce the emis-
5 sions of the chemical substance or
6 mixture; and

7 “(II) the applicability and effec-
8 tiveness of each technique described in
9 subclause (I); and

10 “(xi) information on the nonmonetary
11 costs and benefits and the quantifiable
12 costs and benefits associated with the use
13 of each alternative described in clause (ix)
14 or technique described in clause (x)(I).

15 “(C) UPDATING OF INFORMATION.—

16 “(i) VOLUNTARY UPDATES.—Any per-
17 son that submits information under sub-
18 paragraph (A) or (B) may voluntarily up-
19 date the information at any time.

20 “(ii) REQUIRED UPDATES.—If the Ad-
21 ministrator determines, with the concu-
22 rence of the Secretary of State, that an
23 update of information submitted under
24 subparagraph (A) or (B) is necessary, the
25 Administrator may, through a notice pub-

lished in the Federal Register, require 1 or more persons that are required to submit the information to update the information.

“(iii) NEW INFORMATION.—The Administrator may require any person that (after the date under subparagraphs (A) and (B) by which persons are required to submit information) commences manufacturing, processing, distributing in commerce for export, or disposing of a chemical substance or mixture subject to the requirements in subparagraph (A) or (B), to submit the information required to be submitted under subparagraph (A) or (B).

“(D) REPORT.—Based on information received under this section and any other relevant information available to the Administrator, the Administrator, not later than 240 days after the date of publication of the notice under this paragraph, shall issue for public comment a report that contains, at a minimum—

“(i) information on the production and uses in the United States of the chemical substance or mixture; and

1 “(ii) a review of the benefits and risks
2 in the United States and internationally
3 associated with the production and uses in
4 the United States and internationally of
5 the chemical substance or mixture.

6 “(f) NOTICE AFTER DECISION THAT GLOBAL AC-
7 TION WARRANTED UNDER POPs CONVENTION OR THAT
8 FURTHER CONSIDERATION OF CHEMICAL SUBSTANCE OR
9 MIXTURE WARRANTED UNDER LRTAP POPs PRO-
10 TOCOL.—

11 “(1) APPLICABILITY.—This subsection applies
12 if—

13 “(A) the POPs Review Committee decides,
14 under paragraph 7(a) of Article 8 of the POPs
15 Convention, that global action is warranted with
16 respect to the chemical substance or mixture
17 that is the subject of the proposal, or the Con-
18 ference decides, under paragraph 8 of that Arti-
19 cle, that the proposal shall proceed; or

20 “(B) the Executive Body determines pur-
21 suant to paragraph 2 of Executive Body Deci-
22 sion 1998/2 that further consideration of the
23 chemical substance or mixture is warranted,
24 and therefore requires 1 or more technical re-
25 views of the proposal.

1 “(2) NOTICE.—Not later than 45 days after the
2 date on which a decision or determination is made
3 under paragraph (1), the Administrator shall—

4 “(A) publish in the Federal Register a no-
5 tice of the decision or determination; and

6 “(B) provide opportunity for comment on
7 the decision or determination.

8 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
9 tice under paragraph (1) shall—

10 “(A) identify the chemical substance or
11 mixture that is the subject of the proposal;

12 “(B) include a summary of—

13 “(i) the POPs Review Committee or
14 Conference decision and the basis for the
15 decision; or

16 “(ii) the Executive Body determina-
17 tion and basis for the determination;

18 “(C) request information and comment
19 on—

20 “(i) in the case of a chemical sub-
21 stance or mixture proposed for addition to
22 an Annex of the POPs Convention—

23 “(I) information on socio-
24 economic considerations covered under

1 Annex F to the POPs Convention;
2 and

3 “(II) information on socio-
4 economic considerations covered under
5 Annex F to the POPs Convention ap-
6 plicable to the range of possible prohi-
7 bitions described in subparagraph (F);
8 and

9 “(ii) in the case of a chemical sub-
10 stance or mixture proposed for listing on
11 an Annex to the LRTAP POPs Protocol,
12 information on—

13 “(I) any additional measures not
14 described in the notice published
15 under subparagraph (F) that may
16 exist to reduce the risks of adverse ef-
17 fects on human health or the environ-
18 ment that result from the long-range
19 transboundary atmospheric transport
20 of the chemical substance or mixture;
21 and

22 “(II) the feasibility of any of the
23 additional measures or the measures
24 outlined in the notice published pursu-
25 ant to subparagraph (F);

1 “(D) request information on any current
2 or anticipated production or use of the chemical
3 substance or mixture that is the subject of the
4 proposal for which the United States may wish
5 to—

6 “(i) seek an exemption or acceptable
7 purpose under the POPs Convention; or

8 “(ii) allow a restricted use or condi-
9 tion under the LRTAP POPs Protocol;

10 “(E) request the information required
11 under paragraph (4);

12 “(F) describe a broad range of possible
13 prohibitions or restrictions that the United
14 States could impose on the manufacture, proc-
15 essing, distribution in commerce for export, use,
16 or disposal of the chemical substance or mix-
17 ture to address any risks that the chemical sub-
18 stance or mixture may pose;

19 “(G) specify what changes, if any, to the
20 regulatory requirements and risk management
21 measures applicable to the chemical substance
22 or mixture in the United States have been made
23 since the date of publication of the notice under
24 subsection (e); and

1 “(H) include a statement that any infor-
 2 mation submitted will be part of the record
 3 used as the basis for a rulemaking that the Ad-
 4 ministrator may undertake under this title.

5 “(4) PROVISION OF INFORMATION.—Not later
 6 than 60 days after the date of publication of the no-
 7 tice under paragraph (1), any person that manufac-
 8 tures, processes, distributes in commerce for export,
 9 or disposes of a chemical substance or mixture that
 10 is the subject of the notice shall provide (and any
 11 other interested party may provide) to the Adminis-
 12 trator—

13 “(A) consistent with the information needs
 14 described in Annex F to the POPs Convention,
 15 any information that the person believes is rel-
 16 evant to—

17 “(i) a risk management evaluation
 18 carried out under paragraph 7 of Article 8
 19 of the POPs Convention; or

20 “(ii) a decision by the Conference
 21 under paragraph 9 of Article 8 of the
 22 POPs Convention;

23 “(B) consistent with the information needs
 24 for the technical review described in paragraph
 25 2 of Executive Body Decision 1998/2, any in-

1 formation the person believes is relevant to the
2 technical review or to an Executive Body deci-
3 sion made under paragraph 3 of Article 14 of
4 the LRTAP POPs Protocol;

5 “(C) any information that the person be-
6 lieves is relevant to an action under this section;
7 and

8 “(D) information on any article in use that
9 consists of, contains, or is contaminated with
10 the chemical substance or mixture.

11 “(5) REPORT BY ADMINISTRATOR.—Not later
12 than 240 days after the date of publication of the
13 notice under this paragraph, based on information
14 received under this subsection and any other infor-
15 mation available to the Administrator, the Adminis-
16 trator shall issue a report for public comment that
17 contains, at a minimum, information relating to the
18 feasibility of possible prohibitions or restrictions that
19 could be placed on the manufacture, processing, dis-
20 tribution in commerce for export, use, or disposal of
21 the chemical substance or mixture (including the
22 possible consequences of using alternative products
23 or processes).

1 “(g) NOTICE AFTER RECOMMENDATION THAT CON-
2 FERENCE CONSIDER LISTING OR AFTER COMPLETION OF
3 TECHNICAL REVIEW.—

4 “(1) APPLICABILITY.—This subsection ap-
5 plies—

6 “(A) if the POPs Review Committee rec-
7 ommends, under paragraph 9 of Article 8 of the
8 POPs Convention, that the Conference consider
9 making a Conference listing decision with re-
10 spect to the chemical substance or mixture in
11 accordance with the proposal; or

12 “(B) after completion of a technical review
13 of a proposal to list a chemical substance or
14 mixture on an Annex of the LRTAP POPs Pro-
15 tocol.

16 “(2) NOTICE.—Not later than 45 days after the
17 date on which a recommendation under paragraph
18 (1) is made or a technical review described in para-
19 graph (1) is completed, the Administrator shall—

20 “(A) publish in the Federal Register a no-
21 tice of the recommendation or completion of the
22 technical review; and

23 “(B) provide opportunity for comment on
24 the recommendation or the technical review.

1 “(3) REQUIRED ELEMENTS.—A notice under
2 paragraph (1) shall—

3 “(A) include a summary of the POPs Re-
4 view Committee recommendation and the basis
5 for the recommendation or a summary of the
6 technical review;

7 “(B) summarize any control measures for
8 the chemical substance or mixture that are
9 identified by the POPs Review Committee or in
10 the technical review; and

11 “(C) include a statement that any informa-
12 tion submitted will be part of the record used
13 as the basis for a rulemaking that the Adminis-
14 trator may undertake under this title.

15 “(h) REGULATIONS BY THE ADMINISTRATOR.—

16 “(1) CHEMICAL SUBSTANCE OR MIXTURE LIST-
17 ED UNDER POPS CONVENTION OR LRTAP POPS PRO-
18 TOCOL.—If the Conference decides to list a chemical
19 substance or mixture in Annex A or B of the POPs
20 Convention, or if the parties to the LRTAP POPs
21 Protocol decide to list a chemical substance or mix-
22 ture in Annex I or II to the LRTAP POPs Protocol,
23 the Administrator may commence a rulemaking to
24 prohibit or restrict the manufacture, processing, dis-

1 tribution in commerce for export, use, or disposal of
2 the chemical substance or mixture.

3 “(2) CRITERIA FOR REGULATIONS.—

4 “(A) IN GENERAL.—If the Administrator
5 decides to commence a rulemaking to prohibit
6 or restrict the manufacture, processing, dis-
7 tribution in commerce for export, use, or dis-
8 posal of the chemical substance or mixture, the
9 Administrator shall promulgate prohibitions or
10 restrictions to protect against hazards, includ-
11 ing exposure, to human health and the environ-
12 ment associated with the chemical substance or
13 mixture.

14 “(B) CRITERIA.—In determining the ap-
15 propriate manner of regulation, the Adminis-
16 trator shall take into account public health, en-
17 vironmental, and socioeconomic factors and
18 shall—

19 “(i) consider—

20 “(I) the record compiled under
21 subsections (e), (f), and (g);

22 “(II) national and international
23 consequences that are likely to arise
24 as a result of domestic regulatory ac-
25 tion (including the possible con-

1 sequences of using alternative prod-
2 ucts or processes);

3 “(III) alternatives to the prohibi-
4 tions or restrictions adopted by the
5 Conference or the Executive Body for
6 the newly-listed chemical substance or
7 mixture that are feasible and protec-
8 tive of human health and the environ-
9 ment; and

10 “(IV) all scientific information—

11 “(aa) compiled in the record
12 under subsections (e), (f), and
13 (g);

14 “(bb) submitted to the
15 POPs Review Committee or Con-
16 ference by the United States or
17 any other entity; and

18 “(cc) submitted to the Exec-
19 utive Body, or a subsidiary of the
20 Executive Body, under the
21 LRTAP POPs Protocol;

22 taking due account of the scientific in-
23 formation that is consistent with gen-
24 erally accepted scientific principles;

1 “(ii) in the case of a chemical sub-
2 stance or mixture listed on Annex A or B
3 of the POPs Convention, give substantial
4 weight to—

5 “(I) the POPs Review Committee
6 recommendation under paragraph 9 of
7 Article 8 of the POPs Convention;

8 “(II) the Conference listing deci-
9 sion;

10 “(III) the reports that the Ad-
11 ministrator is required to issue pursu-
12 ant to subsections (e)(4) and (f)(5),
13 including any version of the reports
14 revised to reflect information received
15 through public comment; and

16 “(IV) any information that the
17 United States submits to the POPs
18 Review Committee or to the Con-
19 ference pursuant to Article 8 of the
20 POPs Convention; and

21 “(iii) in the case of a chemical sub-
22 stance or mixture listed on Annex I or II
23 of the LRTAP POPs Protocol, give sub-
24 stantial weight to—

1 “(I) any technical review con-
2 ducted pursuant to paragraph 2 of
3 Executive Body Decision 1998/2;

4 “(II) the LRTAP POPs Protocol
5 listing decision;

6 “(III) the reports that the Ad-
7 ministrator is required to issue pursu-
8 ant to subsections (e)(4) and (f)(5),
9 including any version of the reports
10 revised to reflect information received
11 through public comment; and

12 “(IV) any information that the
13 United States submits to the Execu-
14 tive Body, or a subsidiary of the Ex-
15 ecutive Body, in relation to a technical
16 review or listing decision.

17 “(3) CITIZEN’S PETITION.—

18 “(A) IN GENERAL.—Beginning 1 year
19 after the date on which the Conference listing
20 decision or the LRTAP POPs Protocol listing
21 decision is made, any person may petition the
22 Administrator to commence a rulemaking, if a
23 rulemaking has not commenced as of that date,
24 to prohibit or restrict the manufacture, proc-
25 essing, distribution in commerce for export, use,

1 or disposal of the chemical substance or mix-
2 ture that the Conference decides to list in
3 Annex A or B of the POPs Convention, or that
4 the parties to the LRTAP POPs Protocol de-
5 cide to list in Annex I or II of the LRTAP
6 POPs Protocol.

7 “(B) PROCEDURE.—

8 “(i) IN GENERAL.—A petition under
9 subparagraph (A) shall describe the facts
10 that the petitioner believes make it nec-
11 essary for the Administrator to commence
12 a rulemaking under paragraph (2).

13 “(ii) PROCEEDINGS.—

14 “(I) AVAILABILITY.—The Admin-
15 istrator shall publish in the Federal
16 Register, and make available elec-
17 tronically, a summary of each petition
18 received, including the name of the
19 petitioner.

20 “(II) HEARINGS OR PRO-
21 CEEDINGS.—The Administrator may
22 hold a public hearing, or conduct any
23 investigation or proceeding that the
24 Administrator considers appropriate,

1 to determine whether or not a rule-
2 making should be commenced.

3 “(iii) DECISION BY THE ADMINIS-
4 TRATOR.—

5 “(I) IN GENERAL.—Not later
6 than 90 days after the date of filing
7 of a petition under subparagraph (A),
8 the Administrator shall grant or deny
9 the petition.

10 “(II) GRANT.—If the Adminis-
11 trator grants the petition, the Admin-
12 istrator shall promptly commence a
13 rulemaking and proceed in accordance
14 with paragraph (2).

15 “(III) DENIAL.—If the Adminis-
16 trator denies the petition, the Admin-
17 istrator shall publish in the Federal
18 Register a statement of the reasons
19 for the denial.

20 “(C) CIVIL ACTION TO COMPEL RULE-
21 MAKING.—

22 “(i) IN GENERAL.—If the Adminis-
23 trator denies a petition under subpara-
24 graph (A) (or if the Administrator fails to
25 grant or deny the petition within the 90-

1 day period specified in subparagraph
2 (B)(iii)), the petitioner may bring a civil
3 action in United States district court to
4 compel the Administrator to commence a
5 rulemaking as requested in the petition.

6 “(ii) TIMING.—A civil action under
7 clause (i) shall be brought—

8 “(I) not later than 60 days after
9 the date of denial of the petition; or

10 “(II) if the Administrator fails to
11 grant or deny the petition within the
12 90-day period specified in subpara-
13 graph (B)(iii), not later than 60 days
14 after the expiration of the 90-day pe-
15 riod.

16 “(iii) SCOPE OF REVIEW.—In a civil
17 action under clause (i), the court shall con-
18 sider the petition de novo.

19 “(iv) MATTERS FOR CONSIDER-
20 ATION.—If the Administrator denies a pe-
21 tition, the court shall take into account
22 public health, environmental, and socio-
23 economic factors and shall—

24 “(I) consider—

1 “(aa) the record compiled
2 under subsections (e), (f), and
3 (g);

4 “(bb) national and inter-
5 national consequences that are
6 likely to arise as a result of do-
7 mestic regulatory action (includ-
8 ing the possible consequences of
9 using alternative products or
10 processes);

11 “(cc) alternatives to the pro-
12 hibitions or restrictions adopted
13 by the Conference or the Execu-
14 tive Body for the newly-listed
15 chemical substance or mixture
16 that are feasible and protective of
17 human health and the environ-
18 ment; and

19 “(dd) all scientific informa-
20 tion—

21 “(AA) compiled in the
22 record under subsections (e),
23 (f), and (g);

24 “(BB) submitted to the
25 POPs Review Committee or

1 Conference by the United
2 States or any other entity;
3 and

4 “(CC) submitted to the
5 Executive Body, or a sub-
6 sidiary of the Executive
7 Body, under the LRTAP
8 POPs Protocol;

9 taking due account of the sci-
10 entific information that is con-
11 sistent with generally accepted
12 scientific principles;

13 “(II) in the case of a chemical
14 substance or mixture listed on Annex
15 A or B of the POPs Convention, give
16 substantial weight to—

17 “(aa) the POPs Review
18 Committee recommendation
19 under paragraph 9 of Article 8 of
20 the POPs Convention;

21 “(bb) the Conference listing
22 decision;

23 “(cc) the reports that the
24 Administrator is required to issue
25 pursuant to subsections (e)(4)

1 and (f)(5), including any version
2 of the reports revised to reflect
3 information received through
4 public comment; and

5 “(dd) any information that
6 the United States submits to the
7 POPs Review Committee or to
8 the Conference pursuant to Arti-
9 cle 8 of the POPs Convention;
10 and

11 “(III) in the case of a chemical
12 substance or mixture listed on Annex
13 I or II of the LRTAP POPs Protocol,
14 give substantial weight to—

15 “(aa) any technical review
16 conducted pursuant to paragraph
17 2 of Executive Body Decision
18 1998/2;

19 “(bb) the LRTAP POPs
20 Protocol listing decision;

21 “(cc) the reports that the
22 Administrator is required to issue
23 pursuant to subsections (e)(4)
24 and (f)(5), including any version
25 of the reports revised to reflect

1 information received through
2 public comment; and

3 “(dd) any information that
4 the United States submits to the
5 Executive Body, or a subsidiary
6 of the Executive Body, in relation
7 to a technical review or listing
8 decision.

9 “(v) ORDER TO COMMENCE RULE-
10 MAKING.—The court shall order the Ad-
11 ministrator to commence a rulemaking in
12 accordance with paragraph (2) if the court
13 determines that—

14 “(I) regulatory action to control
15 the manufacture, processing, distribu-
16 tion in commerce for export, use, or
17 disposal of a chemical substance or
18 mixture listed in Annex A or B of the
19 POPs Convention or Annex I or II of
20 the LRTAP POPs Protocol is nec-
21 essary to protect against hazards, in-
22 cluding exposure, to human health
23 and the environment associated with
24 the chemical substance or mixture;
25 and

1 “(II) the Administrator has not
 2 taken action in accordance with para-
 3 graph (2).

4 “(vi) COSTS.—In issuing any final
 5 order in a civil action under clause (i), the
 6 court may award costs of suit and reason-
 7 able fees for attorneys and expert wit-
 8 nesses if the court determines that such an
 9 award is appropriate.

10 “(vii) SAVINGS CLAUSE.—The rem-
 11 edies under this section shall be in addition
 12 to, and not in lieu of, other remedies pro-
 13 vided by law.

14 “(4) DEADLINE FOR REGULATIONS.—

15 “(A) IN GENERAL.—Not later than 18
 16 months after commencing a rulemaking under
 17 this subsection, the Administrator shall—

18 “(i) promulgate final regulations pro-
 19 hibiting or restricting the manufacture,
 20 processing, distribution in commerce for
 21 export, use, or disposal of the chemical
 22 substance or mixture to be listed in Annex
 23 A or B to the POPs Convention or Annex
 24 I or II of the LRTAP POPs Protocol; or

1 “(ii) decide not to promulgate a final
2 rule.

3 “(B) DECISION NOT TO PROMULGATE.—If
4 the Administrator decides not to commence or
5 promulgate a final rule, the Administrator shall
6 publish within 30 days a statement in the Fed-
7 eral Register explaining the reasons for not pro-
8 mulgating or commencing the final rule.

9 “(5) SOLE PROCEDURE.—

10 “(A) IN GENERAL.—No other rulemaking
11 procedure under this Act shall apply to regula-
12 tions promulgated under this section.

13 “(B) RULEMAKING.—Regulations promul-
14 gated by the Administrator under this title shall
15 comply with section 553 of title 5, United
16 States Code (without regard to any reference in
17 that section to sections 556 and 557 of that
18 title).

19 “(6) NO EFFECT ON OTHER AUTHORITY.—
20 Nothing in this subsection affects the authority of
21 the Administrator to regulate a chemical substance
22 or mixture under any other law or any other provi-
23 sion of this Act.

24 “(7) INTERIM STATEMENT.—

1 “(A) APPLICABILITY.—This paragraph ap-
2 plies if the Administrator has not commenced a
3 rulemaking under paragraph (2) by the date
4 that is 1 year after the date on which—

5 “(i) a decision is made by the Con-
6 ference to list a chemical substance or mix-
7 ture in Annex A or B of the POPs Conven-
8 tion; or

9 “(ii) a decision is made by the parties
10 to the LRTAP POPs Protocol to list a
11 chemical substance or mixture in Annex I
12 or II to the LRTAP POPs Protocol.

13 “(B) STATEMENT.—If the Administrator
14 has not commenced a rulemaking as described
15 in subparagraph (A), the Administrator shall
16 publish annually in the Federal Register a
17 statement that—

18 “(i) describes the actions taken by the
19 Administrator with respect to the listing
20 decision; and

21 “(ii) characterizes actions likely to be
22 taken by the Administrator with respect to
23 the commencement of a rulemaking under
24 paragraph (2).

1 “(i) HARMONIZATION OF POPs CONVENTION AND
2 LRTAP POPs PROTOCOL.—

3 “(1) IN GENERAL.—If a chemical substance or
4 mixture is both a POPs chemical substance or mix-
5 ture and a LRTAP POPs chemical substance or
6 mixture, in the case of a conflict between a provision
7 of this section applicable to a POPs chemical sub-
8 stance or mixture and a provision of this section ap-
9 plicable to a LRTAP POPs chemical substance or
10 mixture, the more stringent provision shall apply, as
11 determined by the Administrator with the concur-
12 rence of the Secretary of State.

13 “(2) APPLICATION.—In the case of chemical
14 substance or mixture described in paragraph (1),
15 this section shall be applied in such a manner as to
16 ensure that the United States is in compliance with
17 the POPs Convention and the LRTAP POPs Pro-
18 tocol with respect to the chemical substance or mix-
19 ture.

20 **“SEC. 503. NOTICE AND RECORD OF PROHIBITIONS, EXEMP-**
21 **TIONS, DISALLOWANCES, AND OTHER INFOR-**
22 **MATION.**

23 “(a) IN GENERAL.—The Administrator—

24 “(1) shall publish in the Federal Register time-
25 ly notice concerning—

1 “(A) the POPs chemical substances and
 2 mixtures or the LRTAP POPs chemical sub-
 3 stances and mixtures, subject to the prohibi-
 4 tions specified in section 502;

5 “(B) any exemptions from the prohibitions
 6 authorized under section 502, including the ef-
 7 fective date on which the exemptions are no
 8 longer authorized;

9 “(C) in the case of a LRTAP POPs chem-
 10 ical substance or mixture, any disallowances of
 11 exemptions under section 502(d)(5); and

12 “(D) in the case of a POPs chemical sub-
 13 stance or mixture, a list of any importing for-
 14 eign states from which the Administrator has
 15 received a nonparty certification under section
 16 502(c)(7)(D); and

17 “(2) may include in the notice any other infor-
 18 mation that the Administrator determines to be nec-
 19 essary to ensure adequate notice of the requirements
 20 of—

21 “(A) this section;

22 “(B) the POPs Convention; or

23 “(C) the LRTAP POPs Protocol.

24 “(b) INTEGRATION WITH FIFRA INFORMATION.—

25 The Administrator shall—

1 “(1) maintain a record that integrates the in-
 2 formation in the notice published under subsection
 3 (a) with any information published under section
 4 17(g) of the Federal Insecticide, Fungicide and
 5 Rodenticide Act (7 U.S.C. 136o(e));

6 “(2) update the record as necessary; and

7 “(3) make the record publicly available.

8 “(c) DISCLOSURE OF DATA.—Any information pro-
 9 vided to or otherwise obtained by the Administrator (or
 10 any representative of the Administrator) under this title
 11 shall be subject to section 14 of this Act.”.

12 **“SEC. 504. INTERNATIONAL CONVENTIONS AND COOPERA-**
 13 **TION IN INTERNATIONAL EFFORTS.**

14 “In cooperation with the Secretary of State and the
 15 head of any other appropriate Federal agency, the Admin-
 16 istrator shall—

17 “(1) participate and cooperate in any inter-
 18 national efforts to develop improved research and
 19 regulations on chemical substances and mixtures;
 20 and

21 “(2) participate in technical cooperation and ca-
 22 pacity building activities designed to support imple-
 23 mentation of—

24 “(A) the LRTAP POPs Protocol;

25 “(B) the PIC Convention; and

1 “(C) the POPs Convention.

2 **“SEC. 505. EXPORTS.**

3 “(a) REQUIREMENTS FOR EXPORTS.—In the case of
4 a chemical substance or mixture identified by the Adminis-
5 trator as listed on Annex III of the PIC Convention in
6 a notice issued under subsection (d)(3), any person that
7 distributes in commerce the chemical substance or mixture
8 for export shall comply with any export conditions or re-
9 strictions identified by the Administrator in the notice.

10 “(b) PRE-EXPORT NOTICES.—

11 “(1) IN GENERAL.—

12 “(A) REQUIREMENT.—In the case of—

13 “(i) a chemical substance or mixture
14 that the Administrator determines to be
15 banned or severely restricted under sub-
16 section (d)(1);

17 “(ii) a chemical substance or mixture
18 identified by the Administrator in a notice
19 issued under subsection (d)(3); or

20 “(iii) a POPs chemical substance or
21 mixture allowed to be exported under para-
22 graph (7) or (8) of section 502(c);

23 the exporter of the chemical substance or mix-
24 ture shall provide to the Administrator notice of

1 the intent of the exporter to export the chemical
2 substance or mixture.

3 “(B) TIMING OF NOTICE FOR BANNED OR
4 SEVERELY RESTRICTED CHEMICAL SUBSTANCES
5 OR MIXTURES.—

6 “(i) FIRST EXPORT.—In the case of a
7 first export that an exporter makes from
8 the territory of the United States to each
9 importing foreign state after the Adminis-
10 trator issues a notice under subsection
11 (d)(1), the exporter shall provide the notice
12 so that the Administrator receives the no-
13 tice not earlier than 30 nor later than 15
14 calendar days before the date of export.

15 “(ii) SUBSEQUENT EXPORTS.—In the
16 case of subsequent exports to the import-
17 ing foreign state in the calendar year sub-
18 sequent to the notification provided under
19 clause (ii), the exporter shall provide the
20 notice so that the Administrator receives
21 the notice not earlier than 30 nor later
22 than 15 calendar days before the date of
23 the first export in each calendar year.

1 “(C) TIMING OF PRE-EXPORT NOTICE FOR
2 CHEMICAL SUBSTANCES OR MIXTURES LISTED
3 ON ANNEX III OF THE PIC CONVENTION.—

4 “(i) FIRST EXPORT.—In the case of a
5 first export that an exporter makes from
6 the territory of the United States to each
7 importing foreign state after the Adminis-
8 trator notifies the public under subsection
9 (d)(3), the exporter shall provide the notice
10 so that the Administrator receives the no-
11 tice not earlier than 30 nor later than 15
12 calendar days before the date of export.

13 “(ii) SUBSEQUENT EXPORTS.—In the
14 case of subsequent exports by the exporter
15 to the importing foreign state in a calendar
16 year subsequent to the notification pro-
17 vided under clause (i), the exporter shall
18 provide the notice so that the Adminis-
19 trator receives the notice not earlier than
20 30 nor later than 15 calendar days before
21 the date of the first such subsequent ex-
22 port in each calendar year.

23 “(iii) CHANGED CIRCUMSTANCES MER-
24 ITING NEW NOTICE.—If conditions or re-
25 strictions imposed by the importing foreign

1 state change and the Administrator noti-
2 fies the public of the change under sub-
3 section (d)(3), or if an earlier pre-export
4 notice no longer applies, the exporter shall
5 provide the notice so that the Adminis-
6 trator receives the notice not earlier than
7 30 nor later than 15 calendar days before
8 the date of export.

9 “(D) TIMING OF PRE-EXPORT NOTICE FOR
10 CHEMICAL SUBSTANCES OR MIXTURES AL-
11 LOWED TO BE EXPORTED UNDER PARAGRAPH
12 (7) OR (8) OF SECTION 502(c).—

13 “(i) FIRST EXPORT OF THE CAL-
14 ENDAR YEAR.—In the case of the first ex-
15 port that an exporter makes from the ter-
16 ritory of the United States to each import-
17 ing foreign state of a chemical substance
18 or mixture exported under paragraph (7)
19 or (8) of section 502(c), the exporter shall
20 provide the notice so that the Adminis-
21 trator receives the notice not earlier than
22 30 nor later than 15 calendar days before
23 the date of the first export.

24 “(ii) SUBSEQUENT EXPORTS.—In the
25 case of subsequent exports by the exporter

1 to the importing foreign state in a calendar
2 year subsequent to the notification pro-
3 vided under clause (i) to the importing for-
4 eign state, the exporter shall provide the
5 notice so that the Administrator receives
6 the notice not earlier than 30 nor later
7 than 15 calendar days before the date of
8 the first such subsequent export in each
9 calendar year.

10 “(iii) CHANGED CIRCUMSTANCES MER-
11 ITING NEW NOTICE.—If the information
12 provided in an earlier pre-export notice is
13 no longer accurate, the exporter shall pro-
14 vide the notice so that the Administrator
15 receives the notice not earlier than 30 nor
16 later than 15 calendar days before the date
17 of export.

18 “(2) LATER NOTICES.—Notwithstanding sub-
19 paragraphs (B), (C), and (D) of paragraph (1), the
20 Administrator may permit an exporter to provide a
21 notice under paragraph (1) so that the Adminis-
22 trator receives the notice less than 15 days before
23 the date of an export if the Administrator deter-
24 mines, based on the experience of the Administrator
25 with the notification program, that the Adminis-

1 trator is able to administer notice activities in ac-
2 cordance with the PIC Convention despite the short-
3 ened notice period.

4 “(3) CONTENT OF PRE-EXPORT NOTICES.—

5 “(A) NOTICES UNDER PARAGRAPH
6 (1)(B).—A notice under paragraph (1)(B) shall
7 include—

8 “(i) the name and address of the ex-
9 porter;

10 “(ii) the name and address of the ap-
11 propriate designated national authority of
12 the United States;

13 “(iii) the name and address of the ap-
14 propriate designated national authority of
15 the importing foreign state, if available;

16 “(iv) the name and address of the im-
17 porter;

18 “(v) the name of the chemical sub-
19 stance or mixture for which the notice is
20 required;

21 “(vi) the expected date of export;

22 “(vii) any information relating to the
23 foreseen uses of the chemical substance or
24 mixture, if known, in the importing foreign
25 state;

1 “(viii) any information on pre-
2 cautionary measures to reduce exposure to,
3 and emission of, the chemical substance or
4 mixture;

5 “(ix) any information relating to the
6 concentration of the chemical substance or
7 mixture; and

8 “(x) any other information specified
9 in Annex V to the PIC Convention.

10 “(B) NOTICES UNDER PARAGRAPH
11 (1)(C).—A notice under paragraph (1)(C) shall
12 include—

13 “(i) all of the information required to
14 be included under subparagraph (A);

15 “(ii) any information relating to ex-
16 port conditions or restrictions identified by
17 the Administrator in the notice issued
18 under subsection (d)(3) with respect to the
19 chemical substance or mixture;

20 “(iii) a general description of the
21 manner in which the export complies with
22 those conditions; and

23 “(iv) any other information that the
24 Administrator determines to be necessary
25 for effective enforcement of the export con-

1 ditions or restrictions applicable to the
2 chemical substance or mixture.

3 “(C) NOTICES UNDER PARAGRAPH
4 (1)(D).—A notice submitted to the Adminis-
5 trator under paragraph (1)(D) shall include—

6 “(i) the name and address of the ex-
7 porter;

8 “(ii) the name and address of the im-
9 porter;

10 “(iii) a specification of the identity of
11 the POPs chemical substance or mixture;

12 “(iv) a general description of how the
13 export complies with the conditions under
14 paragraph (7) or (8) of section 502(c); and

15 “(v) such other information as the
16 Administrator determines to be necessary
17 for enforcement of the export-related obli-
18 gations of the POPs Agreement applicable
19 to the chemical substance or mixture.

20 “(4) PRE-EXPORT NOTICES ACCOMPANYING
21 EACH EXPORT.—An exporter shall ensure that a
22 copy of the most recent applicable pre-export notice
23 accompanies each shipment for export and is avail-
24 able for inspection at the border of—

1 “(A) any chemical substance or mixture
2 that the Administrator has identified under
3 subsection (d)(3) as being listed on Annex III
4 of the PIC Convention; or

5 “(B) any POPs chemical substance or mix-
6 ture that is exported under paragraph (7) or
7 (8) of section 502(c).

8 “(5) RETENTION OF PRE-EXPORT NOTICES.—
9 An exporter required to provide a notice under sub-
10 paragraph (C) or (D) of paragraph (1) shall main-
11 tain a copy of the notice and other documents used
12 to generate the notice on site and readily available
13 for a period of not less than 3 years beginning on
14 the date on which the notice is provided.

15 “(c) LABELING REQUIREMENTS.—

16 “(1) IN GENERAL.—In the case of any chemical
17 substance or mixture that is the subject of a notice
18 issued under paragraph (1) or (3) of subsection (d)
19 and that is manufactured, processed, or distributed
20 in commerce for export, the chemical substance or
21 mixture shall, in accordance with the PIC Conven-
22 tion—

23 “(A) bear labeling information relating to
24 risks or hazards to human health or the envi-
25 ronment; and

1 “(B) be accompanied by shipping docu-
2 ments that include any relevant safety data
3 sheets on the chemical substance or mixture.

4 “(2) CUSTOM CODES.—A chemical substance or
5 mixture that is the subject of a notice issued under
6 subsection (d)(3) and that is distributed or sold for
7 export shall be accompanied by shipping documents
8 that bear, at a minimum, any appropriate har-
9 monized system customs codes assigned by the
10 World Customs Organization.

11 “(d) NOTICE REQUIREMENTS AND EXEMPTION.—

12 “(1) DETERMINATION WHETHER CHEMICAL
13 SUBSTANCE OR MIXTURE IS BANNED OR SEVERELY
14 RESTRICTED.—

15 “(A) IN GENERAL.—The Administrator,
16 with the concurrence of the Secretary of State,
17 shall determine whether a chemical substance
18 or mixture is banned or severely restricted with-
19 in the United States (as those terms are de-
20 fined by the PIC Convention).

21 “(B) NOTICE OF DETERMINATIONS.—Not-
22 withstanding any other provision of law, the
23 Administrator shall issue to the Secretariat of
24 the PIC Convention and the public a notice of

1 each determination under subparagraph (A)
2 that includes—

3 “(i) in the case of a notice to the Sec-
4 retariat of the PIC Convention, the infor-
5 mation specified in Annex I to the PIC
6 Convention; and

7 “(ii) in the case of a notice to the
8 public, at a minimum, a summary of that
9 information.

10 “(2) NOTICE TO FOREIGN COUNTRIES.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, on receipt of a notice of
13 intent to export under subsection (b)(1)(B), the
14 Administrator shall provide a copy of the notice
15 to the designated national authority of the im-
16 porting foreign state.

17 “(B) NONIDENTIFIED DESIGNATED NA-
18 TIONAL AUTHORITY.—In a case in which a des-
19 ignated national authority has not been identi-
20 fied, the Administrator shall provide the notice
21 of intent to export to any other appropriate of-
22 ficial of the importing foreign state, as identi-
23 fied by the Administrator.

24 “(3) NOTICE TO PUBLIC.—

1 “(A) IN GENERAL.—The Administrator,
2 with the concurrence of the Secretary of State,
3 shall issue a notice to inform the public of—

4 “(i) any chemical substance or mix-
5 ture that is listed on Annex III to the PIC
6 Convention; and

7 “(ii) any condition or restriction of an
8 importing foreign state that is applicable
9 to the import, in accordance with the PIC
10 Convention, of the chemical substance or
11 mixture.

12 “(B) TIMING.—A notice required under
13 subparagraph (A) shall be issued not later than
14 90 days after, and any conditions or restrictions
15 described in subparagraph (A)(ii) shall take ef-
16 fect not later than 180 days after, the date of
17 receipt of a notice from the Secretariat of the
18 PIC Convention who—

19 “(i) transmits import decisions of the
20 parties to the PIC Convention; or

21 “(ii) provides notice of the failure of
22 the parties to provide import decisions.

23 “(C) TREATMENT OF CONDITIONS AND RE-
24 STRICTIONS.—A condition or restriction identi-
25 fied by a notice required under subparagraph

1 (A) shall be considered to be an export condi-
2 tion or restriction for the purpose of subsection
3 (a).

4 “(4) NOTICE OF EXEMPTION.—The Adminis-
5 trator may issue a notice exempting any chemical
6 substance or mixture from the requirements of sub-
7 sections (a) through (c) and this subsection if the
8 Administrator determines, with the concurrence of
9 the Secretary of State, that the exemption would be
10 consistent with the PIC Convention.

11 “(5) INTEGRATION WITH OTHER NOTICES.—To
12 the maximum extent practicable, the Administrator
13 shall integrate the information contained in any no-
14 tice issued under this subsection into any notice
15 published under—

16 “(A) section 12(b);

17 “(B) section 502; or

18 “(C) section 17(g) of the Federal Insecti-
19 cide, Fungicide, and Rodenticide Act (7 U.S.C.
20 136o(g)).

21 “(e) REGULATIONS.—The Administrator may pro-
22 mulgate such regulations as the Administrator determines
23 to be necessary—

24 “(1) to facilitate implementation of this section;

1 “(2) to ensure compliance with the PIC Con-
2 vention, the POPs Convention, and the LRTAP
3 POPs Protocol; and

4 “(3) to allow the pre-export notice requirement
5 under this section and any pre-export notice require-
6 ment in other provisions of this Act or in any other
7 Federal law to be satisfied by a single notice.

8 “(f) HARMONIZATION OF POPs CONVENTION AND
9 PIC CONVENTION.—

10 “(1) IN GENERAL.—If the export of a chemical
11 substance or mixture is addressed or restricted
12 under both section 502 and this section, that section
13 and this section shall apply to the chemical sub-
14 stance or mixture.

15 “(2) CONFLICT.—In the case of a conflict be-
16 tween section 502 and this section with respect to a
17 chemical substance or mixture, the more stringent
18 provision shall govern.

19 “(3) APPLICATION.—With respect to a chemical
20 substance or mixture, section 502 and this section
21 shall be applied in such a manner as to ensure that
22 the United States is in compliance with both the
23 POPs Convention and the PIC Convention with re-
24 spect to the chemical substance or mixture.

1 **“SEC. 506. JUDICIAL REVIEW.**

2 “(a) DEFINITION OF RULEMAKING RECORD.—In this
3 section, the term ‘rulemaking record’ means—

4 “(1) a regulation reviewed under this section;

5 “(2) any determination required under section
6 502(h);

7 “(3) any written submission of interested par-
8 ties relating to the promulgation of a regulation
9 under section 502(h);

10 “(4)(A) in the case of a POPs chemical sub-
11 stance or mixture, the international listing process
12 and Conference listing decision; or

13 “(B) in the case of a LRTAP POPs chemical
14 substance or mixture, the LRTAP POPs listing deci-
15 sion;

16 “(5) comments on the proposed regulation; and

17 “(6) any other information that the Adminis-
18 trator—

19 “(A) determines to be relevant to the regu-
20 lation; and

21 “(B) identifies on or before the date of
22 promulgation of the regulation.

23 “(b) JUDICIAL REVIEW.—

24 “(1) IN GENERAL.—Not later than 60 days
25 after the date of promulgation of a regulation under

1 this title, any person may file a petition for judicial
2 review of the regulation with—

3 “(A) the United States Court of Appeals
4 for the District of Columbia; or

5 “(B) the United States court of appeals
6 for the circuit in which the person resides or
7 maintains a principal place of business.

8 “(2) JURISDICTION.—The United States courts
9 of appeals shall have exclusive jurisdiction of any ac-
10 tion to obtain judicial review (other than in an en-
11 forcement proceeding) of a regulation promulgated
12 under this title if any United States district court
13 would have had jurisdiction of the action but for this
14 paragraph.

15 “(3) COPIES.—The clerk of the court with
16 which a petition is filed under this subsection shall
17 submit to the Administrator and the Attorney Gen-
18 eral copies of the petition.

19 “(4) RULEMAKING PROCEEDINGS.—With re-
20 spect to an action to obtain judicial review under
21 this subsection, section 2112 of title 28, United
22 States Code, shall apply to—

23 “(A) the filing of the record of proceedings
24 for a rulemaking on which the Administrator
25 based the regulation; and

1 “(B) any transfer of proceedings between
2 United States courts of appeals.

3 “(c) STANDARD OF REVIEW.—Section 706 of title 5,
4 United States Code, shall apply to the review of a regula-
5 tion under this section.

6 “(d) FEES AND COSTS.—The decision of the court
7 in an action commenced under subsection (b), or of the
8 Supreme Court of the United States on review of such
9 a decision, may include an award of costs relating to the
10 action (including reasonable fees for attorneys and expert
11 witnesses) if the court determines that such an award is
12 appropriate.

13 “(e) OTHER REMEDIES.—The remedies provided
14 under this section shall be in addition to and not in lieu
15 of remedies provided under any other provision of law.”.

16 **SEC. 102. EXPORTS.**

17 Section 12(a)(1) of the Toxic Substances Control Act
18 (15 U.S.C. 2611(a)(1)) is amended by striking “(other
19 than section 8)” and inserting “(other than section 8 or
20 title V)”.

21 **SEC. 103. PROHIBITED ACTS.**

22 Section 15 of the Toxic Substances Control Act (15
23 U.S.C. 2614) is amended to read as follows:

24 **“SEC. 15. PROHIBITED ACTS.**

25 “It shall be unlawful for any person to—

1 “(1) fail or refuse to comply with—

2 “(A) any rule promulgated or order issued
3 under section 4;

4 “(B) any requirement prescribed by section
5 5 or 6;

6 “(C) any rule promulgated or order issued
7 under section 5 or 6;

8 “(D) any requirement of title II;

9 “(E) any rule promulgated or order issued
10 under title II;

11 “(F) any requirement of title V; or

12 “(G) any rule promulgated under title V;

13 “(2) use for commercial purposes a chemical
14 substance or mixture that the person knew or had
15 reason to know was manufactured, processed, or dis-
16 tributed in commerce for export in violation of—

17 “(A) section 5 or 6;

18 “(B) a rule promulgated or order issued
19 under section 5 or 6;

20 “(C) an order issued in a civil action
21 brought under section 5 or 7;

22 “(D) title V; or

23 “(E) a rule promulgated under title V;

24 “(3) fail or refuse to establish or maintain
25 records, submit reports, notices, or other informa-

1 tion, or permit access to or copying of records as re-
 2 quired by this Act (including regulations promul-
 3 gated under this Act); or

4 “(4) fail or refuse to permit entry or inspection
 5 as required under section 11.”.

6 **SEC. 104. CONFORMING AMENDMENTS.**

7 (a) Section 11 of the Toxic Substances Control Act
 8 (15 U.S.C. 2610) is amended in subsections (a) and (b)
 9 by striking “title IV” each place it appears and inserting
 10 “title IV or V”.

11 (b) Section 13(a)(1) of the Toxic Substances Control
 12 Act (15 U.S.C. 2612(a)(1)) is amended by striking sub-
 13 paragraph (B) and inserting the following:

14 “(B) it is offered for entry in violation
 15 of—

16 “(i) section 5 or 6;

17 “(ii) title IV or V;

18 “(iii) a rule or order issued under sec-
 19 tion 5 or 6 or title IV or V; or

20 “(iv) an order issued in a civil action
 21 brought under section 5 or 6 or title IV.”.

22 (c) Section 16 of the Toxic Substances Control Act
 23 (15 U.S.C. 2615) is amended by striking “section 15 or
 24 409” each place it appears and inserting “section 15, sec-
 25 tion 409, or title V”.

1 (d) Section 17 of the Toxic Substances Control Act
2 (15 U.S.C. 2616) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (1)—

5 (i) in subparagraph (A), by striking
6 “section 15 or 409,” and inserting “section
7 15, section 409, or title V;”;

8 (ii) by striking subparagraph (B) and
9 inserting the following:

10 “(B) restrain any person from taking any
11 action prohibited by section 5 or 6, or title IV
12 or V (or a rule or order issued under any of
13 those sections or titles);”;

14 (iii) in subparagraph (C), by striking
15 the comma at the end and inserting a
16 semicolon; and

17 (iv) in subparagraph (D)—

18 (I) by striking “title IV manufac-
19 tured” and inserting “title IV or V
20 manufactured”; and

21 (II) by striking “section 5, 6, or
22 title IV” each place it appears and in-
23 serting “section 5 or 6, or title IV or
24 V”; and

1 (B) in paragraph (2), by inserting “or title
2 V” after “section 15”; and

3 (2) in the first sentence of subsection (b), by in-
4 serting “or V” after “title IV”.

5 (e) Section 18(a)(2) of the Toxic Substances Control
6 Act (15 U.S.C. 2617(a)(2)) is amended—

7 (1) in subparagraph (A), by striking “and” at
8 the end;

9 (2) in subparagraph (B), by striking the period
10 at the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(C) no State or political subdivision may
13 establish or continue in effect any requirement
14 that is applicable to—

15 “(i) a POPs Chemical substance or
16 mixture or LRTAP POPs chemical sub-
17 stance or mixture (as defined in title V); or

18 “(ii) a chemical substance or mixture
19 that the Administrator regulates under
20 section 502(h).”.

21 (f) Section 20(a)(1) of the Toxic Substances Control
22 Act (15 U.S.C. 2619(a)(1)) is amended by striking “title
23 II or IV” each place it appears and inserting “title II,
24 IV, or V”.

1 **TITLE II—USE OR PRODUCTION**
2 **OF POPS PESTICIDES**

3 **SEC. 201. DEFINITIONS.**

4 Section 2 of the Federal Insecticide, Fungicide, and
5 Rodenticide Act (7 U.S.C. 136) is amended—

6 (1) by striking subsection (bb) and inserting
7 the following:

8 “(bb) UNREASONABLE ADVERSE EFFECT ON THE
9 ENVIRONMENT.—

10 “(1) IN GENERAL.—The term ‘unreasonable ad-
11 verse effect on the environment’, with respect to a
12 pesticide, means—

13 “(A) any unreasonable risk to humans or
14 the environment, taking into account the eco-
15 nomic, social, and environmental costs and ben-
16 efits of the use of the pesticide;

17 “(B) a human dietary risk from a residue
18 that results from a use of the pesticide in or on
19 any food inconsistent with the standard estab-
20 lished under section 408 of the Federal Food,
21 Drug, and Cosmetic Act (21 U.S.C. 346a); or

22 “(C) any production or use of the pesticide
23 that is inconsistent with an amendment to
24 Annex A or B to the POPs Convention as
25 adopted by the Conference, or an amendment to

Annex I or II to the LRTAP POPs Protocol as adopted by the Executive Body, unless the production or use of the pesticide is necessary—

“(i) to prevent significant adverse effects on human health or the environment that would pose significantly greater risks than the risks associated with the production or use of the pesticide; or

“(ii) to avoid a significant disruption in domestic production of an adequate, wholesome, and economical food supply.

“(2) PUBLIC HEALTH PESTICIDES.—

“(A) IN GENERAL.—The Administrator shall consider the risks and benefits of public health pesticides separately from the risks and benefits of other pesticides.

“(B) HEALTH RISKS.—In weighing any regulatory action concerning a public health pesticide under this Act, the Administrator shall weigh any risks of the public health pesticide against the health risks (such as the diseases transmitted by the vector) to be controlled by the public health pesticide.”; and

(2) by adding at the end the following:

1 “(pp) CONFERENCE.—The term ‘Conference’ means
2 the Conference of the Parties established by paragraph 1
3 of Article 19 of the POPs Convention.

4 “(qq) EXECUTIVE BODY.—The term ‘Executive
5 Body’ means the Executive Body established by Article 10
6 of the LRTAP Convention.

7 “(rr) LRTAP CONVENTION.—The term ‘LRTAP
8 Convention’ means the Convention on Long-Range
9 Transboundary Air Pollution, done at Geneva on Novem-
10 ber 13, 1979 (TIAS 10541).

11 “(ss) LRTAP POPs PESTICIDE.—The term ‘LRTAP
12 POPs pesticide’ means any pesticide or active ingre-
13 dient—

14 “(1) used in producing a pesticide that—

15 “(A) is listed in Annex I or II to the
16 LRTAP POPs Protocol; but

17 “(B) is not listed in Annex A or B to the
18 POPs Convention; and

19 “(2) with respect to which the listing in Annex
20 I or II to the LRTAP POPs Protocol has entered
21 into force with respect to the United States under
22 paragraph 3 of Article 14 of the LRTAP POPs Pro-
23 tocol.

24 “(tt) LRTAP POPs PROTOCOL.—The term ‘LRTAP
25 POPs Protocol’ means the Protocol on Persistent Organic

1 Pollutants to the LRTAP Convention, done at Aarhus on
 2 June 24, 1998.

3 “(uu) POPS CONVENTION.—The term ‘POPs Con-
 4 vention’ means the Stockholm Convention on Persistent
 5 Organic Pollutants, done at Stockholm on May 22, 2001.

6 “(vv) POPS PESTICIDE.—The term ‘POPs pesticide’
 7 means—

8 “(1) aldrin;

9 “(2) chlordane;

10 “(3) dichlorodiphenyltrichloroethane (DDT);

11 “(4) dieldrin;

12 “(5) endrin;

13 “(6) heptachlor;

14 “(7) hexachlorobenzene;

15 “(8) mirex;

16 “(9) toxaphene; and

17 “(10) any other pesticide or active ingredient
 18 used in producing a pesticide—

19 “(A) that is listed in Annex A or B to the
 20 POPs Convention; and

21 “(B) with respect to which an amendment
 22 adding the pesticide or active ingredient used in
 23 producing a pesticide to Annex A or B to the
 24 POPs Convention has entered into force with

1 respect to the United States under paragraph
2 4 of Article 22 of the POPs Convention.

3 “(ww) POPs REVIEW COMMITTEE.—The term
4 ‘POPs Review Committee’ means the Persistent Organic
5 Pollutants Review Committee established under paragraph
6 6 of Article 19 of the POPs Convention.”.

7 **SEC. 202. REGISTRATION OF PESTICIDES.**

8 Section 3 of the Federal Insecticide, Fungicide, and
9 Rodenticide Act (7 U.S.C. 136a) is amended by striking
10 subsection (b) and inserting the following:

11 “(b) EXEMPTIONS.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), any pesticide that is not registered with
14 the Administrator may be transferred if—

15 “(A) the transfer is from 1 registered es-
16 tablishment to a second registered establish-
17 ment operated by the same producer solely
18 for—

19 “(i) packaging at the second establish-
20 ment; or

21 “(ii) use as a constituent part of an-
22 other pesticide at the second establish-
23 ment; or

24 “(B) the transfer is in accordance with the
25 requirements of an experimental use permit.

1 “(2) POPs PESTICIDES.—Paragraph (1) shall
 2 not apply to a POPs pesticide or LRTAP POPs pes-
 3 ticide unless the POPs pesticide or LRTAP POPs
 4 pesticide is permitted to be transferred under any
 5 applicable exemption under subsection (e)(3) or
 6 (f)(3) of section 17.”.

7 **SEC. 203. UNLAWFUL ACTS.**

8 Section 12(a)(2) of the Federal Insecticide, Fun-
 9 gicide, and Rodenticide Act (7 U.S.C. 136j(a)(2)) is
 10 amended—

11 (1) in subparagraph (R), by striking “or” at
 12 the end;

13 (2) in subparagraph (S), by striking the period
 14 at the end and inserting “; or”; and

15 (3) by adding at the end the following:

16 “(T) to violate section 17.”.

17 **SEC. 204. IMPORTS, EXPORTS, AND INTERNATIONAL CON-**
 18 **VENTIONS.**

19 (a) PESTICIDES AND DEVICES INTENDED FOR EX-
 20 PORT.—Section 17(a) of the Federal Insecticide, Fun-
 21 gicide, and Rodenticide Act (7 U.S.C. 136o(a)) is amended
 22 in the first sentence—

23 (1) in paragraph (1), by striking “and” at the
 24 end;

1 (2) in paragraph (2), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(3) if the export is in compliance with this sec-
5 tion.”.

6 (b) IMPORTS OF PESTICIDES AND DEVICES.—Section
7 17(c) of the Federal Insecticide, Fungicide, and
8 Rodenticide Act (7 U.S.C. 136o(c)) is amended by adding
9 at the end the following: “Nothing in this subsection au-
10 thorizes the import of any POPs pesticide that is prohib-
11 ited under subsection (e).”.

12 (c) INTERNATIONAL CONVENTIONS AND COOPERA-
13 TION IN INTERNATIONAL EFFORTS.—Section 17 of the
14 Federal Insecticide, Fungicide, and Rodenticide Act (7
15 U.S.C. 136o) is amended—

16 (1) in subsection (d)—

17 (A) by striking “agency, participate” and
18 inserting “agency—

19 “(1) participate”;

20 (B) by striking the period at the end and
21 inserting “; and”; and

22 (C) by adding at the end the following:

23 “(2) participate in technical cooperation and ca-
24 pacity building activities designed to support imple-
25 mentation of—

1 “(A) the LRTAP POPs Protocol;

2 “(B) the Rotterdam Convention on the
3 Prior Informed Consent Procedure for Certain
4 Hazardous Chemicals and Pesticides in Inter-
5 national Trade, done at Rotterdam on Sep-
6 tember 10, 1998; and

7 “(C) the POPs Convention.”;

8 (2) by redesignating subsection (e) as sub-
9 section (h); and

10 (3) by inserting after subsection (d) the fol-
11 lowing:

12 “(e) POPs CONVENTION.—

13 “(1) PROHIBITION ON SPECIFIED POPS PES-
14 TICIDES.—Subject to paragraph (3) and the POPs
15 Convention, notwithstanding any other provision of
16 law, a person shall not sell, distribute, use, produce,
17 or conduct any disposal operation that may lead to
18 recovery, recycling, reclamation, reuse, or an alter-
19 native use of a POPs pesticide specified in any of
20 paragraphs (1) through (9) of section 2(vv).

21 “(2) PROHIBITION ON OTHER POPS PES-
22 TICIDES.—

23 “(A) IN GENERAL.—Subject to paragraph
24 (3), notwithstanding any other provision of law,
25 a person shall not use, produce, or conduct any

1 disposal operation that may lead to recovery,
2 recycling, reclamation, reuse, or an alternative
3 use of a POPs pesticide described in section
4 2(vv)(10) that—

5 “(i) is not subject to paragraph (1);

6 and

7 “(ii) meets a condition described in
8 subparagraph (B).

9 “(B) CANCELLATION OR STATEMENT OF
10 COMPLIANCE.—

11 “(i) IN GENERAL.—The condition re-
12 ferred to in subparagraph (A)(ii) is that, in
13 accordance with this Act, the Adminis-
14 trator, with the concurrence of the Sec-
15 retary of State—

16 “(I) subject to clause (ii), cancels
17 under section 6 any existing registra-
18 tion that the Administrator deter-
19 mines would prevent the United
20 States from complying with the obli-
21 gations of the United States under
22 the POPs Convention if the United
23 States were to become a party to the
24 POPs Convention with respect to the
25 POPs pesticide; or

1 “(II) after providing notice and
2 an opportunity for comment—

3 “(aa) issues a statement
4 that there are no existing reg-
5 istrations for the POPs pesticide
6 that would prevent the United
7 States from complying with the
8 obligations of the United States
9 under the POPs Convention; and

10 “(bb) in the statement, iden-
11 tifies any uses of the POPs pes-
12 ticide permitted in the United
13 States that would not prevent the
14 United States from complying
15 with the obligations of the United
16 States under the POPs Conven-
17 tion.

18 “(ii) EFFECTIVE DATE OF CANCELLA-
19 TION.—An action under clause (i)(I) and
20 section 6 based on a finding of the Admin-
21 istrator that production or use of a POPs
22 pesticide would result in an unreasonable
23 adverse effect on the environment because
24 of an inconsistency with an amendment to
25 Annex A or B to the POPs Convention

1 shall not become effective until such time
2 as the amendment enters into force with
3 respect to the United States under para-
4 graph 4 of Article 22 of the POPs Conven-
5 tion.

6 “(3) EXEMPTIONS.—

7 “(A) EXEMPTIONS UNDER POPS CONVEN-
8 TION.—To the extent consistent with the POPs
9 Convention, the prohibitions specified in para-
10 graphs (1) and (2) shall not apply to any sale,
11 distribution, use, or production of a POPs pes-
12 ticide that the Administrator determines,
13 through a cancellation order issued under sec-
14 tion 6 or a statement issued under paragraph
15 (2)(B)(i)(II)—

16 “(i) is consistent with—

17 “(I) a production or use specific
18 exemption under Annex A or B to the
19 POPs Convention; or

20 “(II) an acceptable purpose avail-
21 able to the United States under
22 Annex B to the POPs Convention;
23 and

24 “(ii) would, as a result, not prevent
25 the United States from complying with the

1 obligations of the United States under the
2 POPs Convention.

3 “(B) UNINTENTIONAL TRACE CONTAMI-
4 NANTS.—To the extent consistent with the
5 POPs Convention, the prohibitions specified in
6 paragraphs (1) and (2) shall not apply to any
7 quantity of a POPs pesticide that occurs as an
8 unintentional trace contaminant in an article.

9 “(C) RESEARCH.—To the extent consistent
10 with the POPs Convention, the prohibitions
11 specified in paragraphs (1) and (2) shall not
12 apply to any quantity of a POPs pesticide that
13 is used for laboratory scale research or as a ref-
14 erence standard.

15 “(D) CONSTITUENT OF ARTICLE IN USE
16 BEFORE PROHIBITION APPLIED.—To the extent
17 consistent with the POPs Convention, the pro-
18 hibitions specified in paragraphs (1) and (2)
19 shall not apply to any quantity of a POPs pes-
20 ticide that occurs as a constituent of an article,
21 if—

22 “(i) the article is manufactured or in
23 use on or before the date of entry into
24 force of the obligation applicable to the
25 POPs pesticide; and

1 “(ii) the Administrator has met any
2 applicable requirement of the POPs Con-
3 vention to notify the Secretariat of the
4 POPs Convention concerning the article.

5 “(E) DISTRIBUTION FOR EXPORT IF PRO-
6 DUCATION OR USE SPECIFIC EXEMPTION OR AC-
7 CEPTABLE PURPOSE IS IN EFFECT.—

8 “(i) IN GENERAL.—To the extent con-
9 sistent with the POPs Convention, the pro-
10 hibitions specified in paragraphs (1) and
11 (2) shall not apply to any distribution for
12 export of any POPs pesticide for which a
13 production or use specific exemption under
14 Annex A to the POPs Convention is in ef-
15 fect, or for which a production or use spe-
16 cific exemption or acceptable purpose
17 under Annex B to the POPs Convention is
18 in effect, if the POPs pesticide complies
19 with an export condition described in
20 clause (ii), (iii), or (iv).

21 “(ii) EXPORT FOR ENVIRONMENTALLY
22 SOUND DISPOSAL.—An export condition re-
23 ferred to in clause (i) is that the POPs
24 pesticide is exported for the purpose of en-
25 vironmentally sound disposal in accordance

1 with paragraph 1(d) of Article 6 of the
2 POPs Convention.

3 “(iii) EXPORT TO PARTY WITH PER-
4 MISSION TO USE.—An export condition re-
5 ferred to in clause (i) is that the POPs
6 pesticide is exported to a party to the
7 POPs Convention that is permitted to use
8 the POPs pesticide under Annex A or B to
9 the POPs Convention.

10 “(iv) EXPORT TO NONPARTY IN AC-
11 CORDANCE WITH NONPARTY CERTIFI-
12 CATION.—

13 “(I) IN GENERAL.—An export
14 condition referred to in clause (i) is
15 that the POPs pesticide is exported,
16 to an importing country that is not a
17 party to the POPs Convention with
18 respect to the POPs pesticide, for
19 sale, distribution, or use in accordance
20 with a complete and accurate
21 nonparty certification that the import-
22 ing country annually provides to the
23 Administrator.

24 “(II) COMMITMENTS BY IMPORT-
25 ING NONPARTY.—Consistent with the

1 POPs Convention, an annual
2 nonparty certification under subclause
3 (I) shall specify the intended use of
4 the POPs pesticide and state that,
5 with respect to the POPs pesticide,
6 the importing nonparty is committed
7 to—

8 “(aa) protecting human
9 health and the environment by
10 taking necessary measures to
11 minimize or prevent releases;

12 “(bb) complying with para-
13 graph 1 of Article 6 of the POPs
14 Convention; and

15 “(cc) complying, to the ex-
16 tent appropriate, with paragraph
17 2 of Part II of Annex B to the
18 POPs Convention.

19 “(III) SUPPORTING DOCUMENTA-
20 TION.—Each nonparty certification
21 shall include any appropriate sup-
22 porting documentation, such as legis-
23 lation, regulatory instruments, and
24 administrative or policy guidelines.

1 “(IV) SUBMISSION TO SECRE-
2 TARIAT OF POPS CONVENTION.—Not
3 later than 60 days after the date of
4 receipt of a complete nonparty certifi-
5 cation, the Administrator shall submit
6 a copy of the nonparty certification to
7 the Secretariat of the POPs Conven-
8 tion.

9 “(F) EXPORT FOR ENVIRONMENTALLY
10 SOUND DISPOSAL IF NO PRODUCTION OR USE
11 SPECIFIC EXEMPTION IN EFFECT.—To the ex-
12 tent consistent with the POPs Convention, the
13 prohibitions specified in paragraphs (1) and (2)
14 shall not apply to any distribution for export
15 for the purpose of environmentally sound dis-
16 posal, in accordance with paragraph 1(d) of Ar-
17 ticle 6 of the POPs Convention, of a POPs pes-
18 ticide listed in Annex A to the POPs Conven-
19 tion for which no production or use specific ex-
20 emption is in effect for any party to the POPs
21 Convention.

22 “(G) IMPORTS FOR SPECIFIED PUR-
23 POSES.—To the extent consistent with the
24 POPs Convention, the prohibitions specified in
25 paragraphs (1) and (2) shall not apply to any

1 distribution of a POPs pesticide that is im-
 2 ported—

3 “(i) for the purpose of environ-
 4 mentally sound disposal in accordance with
 5 paragraph 1(d) of Article 6 of the POPs
 6 Convention; or

7 “(ii) for a purpose authorized under a
 8 cancellation order issued under section 6.

9 “(H) NO EFFECT ON OTHER PROHIBI-
 10 TIONS.—Nothing in this paragraph authorizes
 11 any sale, distribution, use, or production, or
 12 any disposal operation, that may lead to recov-
 13 ery, recycling, reclamation, reuse, or an alter-
 14 native use, of any POPs pesticide that is pro-
 15 hibited under any other provision of law.

16 “(4) CERTIFICATION STATEMENT ACCOM-
 17 PANYING POPS PESTICIDES.—

18 “(A) IN GENERAL.—Each POPs pesticide
 19 that is sold or distributed under subparagraph
 20 (A), (C), (E), (F), or (G) of paragraph (3) shall
 21 be accompanied by a certification statement.

22 “(B) PERSON REQUIRED TO PREPARE.—A
 23 certification statement required by subpara-
 24 graph (A) shall be prepared—

1 “(i) by the producer of the POPs pes-
2 ticide; or

3 “(ii) if there is no certification state-
4 ment accompanying the POPs pesticide, by
5 any person that sells or distributes the
6 POPs pesticide.

7 “(C) REQUIRED ELEMENTS.—The certifi-
8 cation statement shall contain—

9 “(i) a specification of the quantity
10 and identity of the POPs pesticide;

11 “(ii) the basis for application of sub-
12 paragraph (A), (C), (E), (F), or (G) of
13 paragraph (3); and

14 “(iii) such other information as the
15 Administrator determines to be necessary
16 for effective enforcement of this subsection.

17 “(D) DUTIES OF SELLERS AND DISTRIBUTU-
18 TORS.—Any person that sells or distributes the
19 POPs pesticide shall ensure that—

20 “(i) the certification statement accom-
21 panies the POPs pesticide when the POPs
22 pesticide is sold or distributed; and

23 “(ii) the sale or distribution is con-
24 sistent with the certification statement.

1 “(E) MAINTENANCE OF CERTIFICATION
 2 STATEMENT.—A person that prepares a certifi-
 3 cation statement shall maintain a copy of the
 4 certification statement for a period of not less
 5 than 3 years beginning on the date on which
 6 the certification statement is prepared.

7 “(F) REGULATIONS.—The Administrator
 8 may promulgate such regulations as are nec-
 9 essary—

10 “(i) to facilitate implementation of
 11 this paragraph; and

12 “(ii) to ensure that this paragraph is
 13 implemented in compliance with the POPs
 14 Convention.

15 “(5) SUBMISSION OF INFORMATION.—

16 “(A) PROPOSAL FOR LISTING MEETS POPs
 17 CONVENTION SCREENING CRITERIA.—

18 “(i) PUBLICATION OF NOTICE IN FED-
 19 ERAL REGISTER.—As soon as practicable
 20 after the date of a determination by the
 21 POPs Review Committee that a proposal
 22 for listing a pesticide in Annex A, B, or C
 23 to the POPs Convention meets the screen-
 24 ing criteria specified in Annex D to the
 25 POPs Convention, the Administrator shall

1 publish in the Federal Register a notice
2 that—

3 “(I) identifies the pesticide; and

4 “(II) summarizes the determina-
5 tion of the POPs Review Committee.

6 “(ii) PROVISION OF ARGUMENTS OR
7 INFORMATION TO THE ADMINISTRATOR.—

8 Not later than 60 days after the date of
9 publication of the notice under clause (i),
10 any registrant of the pesticide or other in-
11 terested person that might support or ob-
12 ject to any listing of the pesticide in Annex
13 A, B, or C to the POPs Convention may
14 provide to the Administrator any argu-
15 ments or information associated with the
16 risks or benefits of use of the pesticide (in-
17 cluding information specified in Annex D
18 or E to the POPs Convention) that, in the
19 opinion of the registrant or other inter-
20 ested person, supports a determination
21 that—

22 “(I) the determination by the
23 POPs Review Committee is incorrect;
24 or

1 “(II) any or all uses of the pes-
2 ticide in the United States do or do
3 not result in any unreasonable adverse
4 effect on the environment.

5 “(iii) PROVISION OF ADDITIONAL IN-
6 FORMATION.—If a registrant or other in-
7 terested person obtains, after the deadline
8 established under clause (ii), additional in-
9 formation that was not available to the
10 registrant or other interested person by the
11 deadline, the registrant or other interested
12 person may provide to the Administrator
13 the additional information, and arguments
14 based on the additional information, not
15 later than 60 days after the date of acqui-
16 sition by the registrant or other interested
17 person of the additional information.

18 “(iv) REPORT BY ADMINISTRATOR TO
19 SECRETARY OF STATE.—Based on infor-
20 mation received under this paragraph and
21 any other relevant information available to
22 the Administrator, the Administrator, not
23 later than 180 days after the date of publi-
24 cation of the notice under clause (i), shall

1 submit to the Secretary of State a report
2 that contains, at a minimum—

3 “(I) information on the reg-
4 istered uses in the United States of
5 the pesticide; and

6 “(II) an assessment of the bene-
7 fits and risks associated with the uses
8 in the United States of the pesticide.

9 “(B) DECISION TO PROCEED WITH LIST-
10 ING PROCESS.—

11 “(i) PUBLICATION OF NOTICE IN FED-
12 ERAL REGISTER.—If the POPs Review
13 Committee decides under paragraph 7 of
14 Article 8 of the POPs Convention that a
15 proposal for listing a pesticide shall pro-
16 ceed, the Administrator shall publish in the
17 Federal Register a notice that—

18 “(I) identifies the pesticide; and

19 “(II) summarizes the decision of
20 the POPs Review Committee.

21 “(ii) PROVISION OF INFORMATION BY
22 INTERESTED PERSONS.—Not later than 60
23 days after the date of publication of the
24 notice under clause (i), any person inter-
25 ested in a pesticide that is the subject of

1 the notice may provide to the Adminis-
2 trator—

3 “(I) consistent with the informa-
4 tion needs described in Annex F to
5 the POPs Convention, any informa-
6 tion that the person believes is rel-
7 evant to—

8 “(aa) a risk management
9 evaluation carried out under
10 paragraph 7 of Article 8 of the
11 POPs Convention;

12 “(bb) a decision by the Con-
13 ference under paragraph 9 of Ar-
14 ticle 8 of the POPs Convention;
15 or

16 “(cc) an action under sec-
17 tion 6(b); and

18 “(II) information on any article
19 in use that consists of, contains, or is
20 contaminated with the pesticide.

21 “(C) EFFECT OF FAILURE TO SUBMIT IN-
22 FORMATION.—If an argument or item of infor-
23 mation is not submitted by a deadline estab-
24 lished under this paragraph, a person may not
25 raise the argument or submit the information in

any subsequent cancellation proceeding initiated by the Administrator under section 6 in response to a listing decision by the Conference unless the person that seeks to raise the argument or submit the information demonstrates that the argument or information could not reasonably have been made available to the Administrator by the deadlines established under this paragraph.

“(f) LRTAP POPs PROTOCOL.—

“(1) PROHIBITION ON SPECIFIED LRTAP POPs PESTICIDES.—

“(A) IN GENERAL.—Subject to subparagraph (B), paragraph (3), and the LRTAP POPs Protocol, notwithstanding any other provision of law, a person shall not sell, distribute, use, produce, or conduct any disposal operation that may lead to recovery, recycling, reclamation, reuse, or an alternative use of any of the following LRTAP POPs pesticides:

“(i) Chlordecone.

“(ii) Hexabromobiphenyl.

“(iii) Hexachlorocyclohexane (HCH).

“(B) ADDITION TO ANNEX A OR B TO POPs CONVENTION.—If a LRTAP POPs pesticide

specified in subparagraph (A) is added to Annex A or B to the POPs Convention and the amendment making the addition enters into force with respect to the United States under paragraph 4 of Article 22 of the POPs Convention—

“(i) subparagraph (A) shall not apply to the LRTAP POPs pesticide; and

“(ii) the LRTAP POPs pesticide shall be subject to subsection (e).

“(2) PROHIBITION ON OTHER LRTAP POPS PESTICIDES.—

“(A) IN GENERAL.—Subject to paragraph (3), notwithstanding any other provision of law, a person shall not sell, distribute, use, or produce a LRTAP POPs pesticide that—

“(i) is not subject to paragraph (1);

and

“(ii) meets a condition described in subparagraph (B).

“(B) CANCELLATION OR STATEMENT OF COMPLIANCE.—

“(i) IN GENERAL.—The condition referred to in subparagraph (A)(ii) is that, in accordance with this Act, the Adminis-

1 trator, with the concurrence of the Sec-
2 retary of State—

3 “(I) subject to clause (ii), cancels
4 under section 6 any existing registra-
5 tion that the Administrator deter-
6 mines would prevent the United
7 States from complying with the obli-
8 gations of the United States under
9 the LRTAP POPs Protocol if the
10 United States were to become a party
11 to the LRTAP POPs Protocol for the
12 LRTAP POPs pesticide; or

13 “(II) after providing notice and
14 an opportunity for comment—

15 “(aa) issues a statement
16 that there are no existing reg-
17 istrations for the LRTAP POPs
18 pesticide that would prevent the
19 United States from complying
20 with the obligations of the United
21 States under the LRTAP POPs
22 Protocol; and

23 “(bb) in the statement, iden-
24 tifies any uses of the LRTAP
25 POPs pesticide permitted in the

1 United States that would not
2 prevent the United States from
3 complying with the obligations of
4 the United States under the
5 POPs Convention.

6 “(ii) EFFECTIVE DATE OF CANCELLA-
7 TION.—An action under clause (i)(I) and
8 section 6 based on a finding of the Admin-
9 istrator that production or use of a pes-
10 ticide would result in an unreasonable ad-
11 verse effect on the environment because of
12 an inconsistency with an amendment to
13 Annex I or II to the LRTAP POPs Pro-
14 tocol shall not become effective until such
15 time as the amendment enters into force
16 with respect to the United States under
17 paragraph 3 of Article 14 of the LRTAP
18 POPs Protocol.

19 “(3) EXEMPTIONS.—

20 “(A) IN GENERAL.—To the extent con-
21 sistent with the LRTAP POPs Protocol, the
22 prohibitions specified in paragraphs (1) and (2)
23 shall not apply to—

24 “(i) any sale, distribution, use, or pro-
25 duction of a LRTAP POPs pesticide that

1 the Administrator determines, through a
2 cancellation order issued under section 6
3 or a statement issued under paragraph
4 (2)(B)(i)(II)—

5 “(I) is consistent with an exemp-
6 tion available to the United States
7 under Annex I or II to the LRTAP
8 POPs Protocol; and

9 “(II) would, as a result, not pre-
10 vent the United States from com-
11 plying with the obligations of the
12 United States under the LRTAP
13 POPs Protocol;

14 “(ii) any quantity of a LRTAP POPs
15 pesticide that is used for laboratory scale
16 research or as a reference standard;

17 “(iii) any quantity of a LRTAP POPs
18 pesticide that occurs as a contaminant in
19 an article;

20 “(iv) any quantity of a LRTAP POPs
21 pesticide that is in an article manufactured
22 or in use on or before—

23 “(I) the implementation date of
24 the LRTAP POPs Protocol; or

1 “(II) in the case of any LRTAP
 2 POPs pesticide added to any applica-
 3 ble Annex after the implementation
 4 date of the LRTAP POPs Protocol,
 5 the implementation date of the
 6 amendment to the LRTAP POPs Pro-
 7 tocol that makes the addition; or

8 “(v) the production or use of any
 9 quantity of hexachlorocyclohexane (HCH)
 10 that complies with the restrictions and con-
 11 ditions specified for HCH in Annex II to
 12 the LRTAP POPs Protocol.

13 “(B) PETITIONS FOR EXEMPTIONS AU-
 14 THORIZED BY LRTAP POPS PROTOCOL.—

15 “(i) IN GENERAL.—A person may pe-
 16 tition the Administrator for an exemption
 17 from a prohibition specified in paragraph
 18 (1) or (2) that is consistent with the ex-
 19 emptions authorized under paragraph 2 of
 20 Article 4 of the LRTAP POPs Protocol.

21 “(ii) REQUIRED ELEMENTS OF PETI-
 22 TIONS.—Any petition under clause (i)
 23 shall, at a minimum, contain—

24 “(I) information relating to each
 25 finding, if any, that the Administrator

1 is required to make under the LRTAP
2 POPs Protocol before granting the ex-
3 emption; and

4 “(II) any additional information,
5 if any, that the Administrator is re-
6 quired to provide to the Secretariat of
7 the LRTAP POPs Protocol con-
8 cerning a granted exemption.

9 “(iii) GRANT OR DENIAL OF PETI-
10 TION.—The Administrator, with the con-
11 currence of the Secretary of State, shall—

12 “(I) if the petition is authorized
13 for the United States under, and is
14 otherwise consistent with, the LRTAP
15 POPs Protocol, grant the petition
16 with such conditions or limitations as
17 are necessary to meet any require-
18 ment of the LRTAP POPs Protocol
19 or any other provision of law; or

20 “(II) deny the petition.

21 “(iv) PROVISION OF INFORMATION TO
22 SECRETARIAT.—Notwithstanding any other
23 provision of law, if the Administrator
24 grants the petition, the Administrator, not
25 later than 90 days after the date on which

1 the petition is granted, shall provide the
2 Secretariat of the LRTAP POPs Protocol
3 with the information specified in para-
4 graph 3 of Article 4 of the LRTAP POPs
5 Protocol.

6 “(v) DISALLOWANCE OF EXEMPTION
7 BY LRTAP POPS PROTOCOL.—

8 “(I) IN GENERAL.—If, after an
9 exemption has been granted under
10 this subparagraph, the exemption is
11 no longer authorized for the United
12 States under the LRTAP POPs Pro-
13 tocol, it shall be unlawful for any per-
14 son to sell, distribute, use, or produce
15 a LRTAP POPs pesticide in the man-
16 ner authorized by the petition.

17 “(II) PUBLICATION OF NOTICE
18 IN FEDERAL REGISTER.—The Admin-
19 istrator shall publish in the Federal
20 Register a notice announcing the dis-
21 allowance of any exemption under
22 subclause (I).

23 “(C) NO EFFECT ON OTHER PROHIBI-
24 TIONS.—Nothing in this paragraph authorizes
25 any sale, distribution, use, production, or dis-

posal operation that may lead to recovery, recycling, reclamation, reuse, or an alternative use of any LRTAP POPs pesticide that is prohibited under any other provision of law.

“(4) CERTIFICATION STATEMENT ACCOMPANYING LRTAP POPs PESTICIDES.—

“(A) IN GENERAL.—Each LRTAP POPs pesticide that is sold or distributed under subparagraph (A)(i), (A)(ii), or (B) of paragraph (3) shall be accompanied by a certification statement.

“(B) PERSON REQUIRED TO PREPARE.—A certification statement required by subparagraph (A) shall be prepared—

“(i) by the producer of the LRTAP POPs pesticide; or

“(ii) if there is no certification statement accompanying the LRTAP POPs pesticide, by any person that sells or distributes the LRTAP POPs pesticide.

“(C) REQUIRED ELEMENTS.—The certification statement shall contain—

“(i) a specification of the quantity and identity of the LRTAP POPs pesticide;

1 “(ii) the basis for application of sub-
2 paragraph (A)(i), (A)(ii), or (B) of para-
3 graph (3); and

4 “(iii) such other information as the
5 Administrator determines to be necessary
6 for effective enforcement of this subsection.

7 “(D) DUTIES OF SELLERS AND DISTRIBUTORS.—Any person that sells or distributes the
8 LRTAP POPs pesticide shall ensure that—
9

10 “(i) the certification statement accom-
11 panies the LRTAP POPs pesticide when
12 the LRTAP POPs pesticide is sold or dis-
13 tributed; and

14 “(ii) the sale or distribution is con-
15 sistent with the certification statement.

16 “(E) MAINTENANCE OF CERTIFICATION
17 STATEMENT.—A person that prepares a certifi-
18 cation statement shall maintain a copy of the
19 certification statement for a period of not less
20 than 3 years beginning on the date on which
21 the certification statement is prepared.

22 “(F) REGULATIONS.—The Administrator
23 may promulgate such regulations as are nec-
24 essary—

1 “(i) to facilitate implementation of
2 this paragraph; and

3 “(ii) to ensure that this paragraph is
4 implemented in compliance with the
5 LRTAP POPs Protocol.

6 “(5) SUBMISSION OF INFORMATION.—

7 “(A) RISK PROFILE IN SUPPORT OF PRO-
8 POSED AMENDMENT TO LIST.—

9 “(i) PUBLICATION OF NOTICE IN FED-
10 ERAL REGISTER.—As soon as practicable
11 after the date of submission to the Execu-
12 tive Body of a risk profile in support of a
13 proposed amendment to list a pesticide in
14 Annex I, II, or III to the LRTAP POPs
15 Protocol, the Administrator shall publish
16 in the Federal Register a notice that—

17 “(I) identifies the pesticide; and

18 “(II) summarizes the risk profile
19 for the pesticide.

20 “(ii) PROVISION OF ARGUMENTS OR
21 INFORMATION TO THE ADMINISTRATOR.—

22 Not later than 60 days after the date of
23 publication of the notice under clause (i),
24 any registrant of the pesticide or other in-
25 terested person that might support or ob-

1 ject to any listing of the pesticide in Annex
2 I, II, or III to the LRTAP POPs Protocol
3 may provide to the Administrator any ar-
4 guments or information associated with the
5 risks or benefits of use of the pesticide
6 that, in the opinion of the registrant or
7 other interested person, supports a deter-
8 mination that—

9 “(I) the risk profile is incorrect;

10 or

11 “(II) any or all uses of the pes-
12 ticide in the United States do or do
13 not result in any unreasonable adverse
14 effect on the environment.

15 “(iii) PROVISION OF ADDITIONAL IN-
16 FORMATION.—If a registrant or other in-
17 terested person obtains, after the deadline
18 established under clause (ii), additional in-
19 formation that was not available to the
20 registrant or other interested person by the
21 deadline, the registrant or other interested
22 person may provide to the Administrator
23 the additional information, and arguments
24 based on the additional information, not
25 later than 60 days after the date of acqui-

sition by the registrant or other interested person of the additional information.

“(iv) REPORT BY ADMINISTRATOR TO SECRETARY OF STATE.—Based on information received under this paragraph and any other relevant information available to the Administrator, the Administrator, not later than 180 days after the date of publication of the notice under clause (i), shall submit to the Secretary of State a report that contains, at a minimum—

“(I) information on the registered uses in the United States of the pesticide; and

“(II) an assessment of the benefits and risks associated with the uses in the United States of the pesticide.

“(B) EFFECT OF FAILURE TO SUBMIT INFORMATION.—If an argument or item of information is not submitted by a deadline established under this paragraph, a person may not raise the argument or submit the information in any subsequent cancellation proceeding initiated by the Administrator under section 6 in response to an amendment to Annex I, II, or III

1 to the LRTAP POPs Protocol unless the person
 2 that seeks to raise the argument or submit the
 3 information demonstrates that the argument or
 4 information could not reasonably have been
 5 made available to the Administrator by the
 6 deadlines established under this paragraph.

7 “(g) NOTICE AND RECORD OF PROHIBITIONS, EX-
 8 EMPTIONS, DISALLOWANCES, AND OTHER INFORMA-
 9 TION.—

10 “(1) IN GENERAL.—The Administrator—

11 “(A) shall publish in the Federal Register
 12 timely notice concerning—

13 “(i)(I) the POPs pesticides subject to
 14 the prohibitions specified in subsection (e);

15 “(II) any exemptions from the prohi-
 16 bitions authorized under subsection (e);
 17 and

18 “(III) any importing country from
 19 which any POPs pesticide has received a
 20 nonparty certification under subsection
 21 (e)(3)(E)(iv); and

22 “(ii)(I) the LRTAP POPs pesticides
 23 subject to the prohibitions specified in sub-
 24 section (f); and

1 “(II) any exemptions from the prohi-
 2 bitions authorized under subsection (f), in-
 3 cluding any disallowances of exemptions
 4 under subsection (f)(3)(B)(v); and

5 “(B) may include in the notice any other
 6 information that the Administrator determines
 7 to be necessary to ensure adequate notice of the
 8 requirements of—

9 “(i) this section;

10 “(ii) the POPs Convention; or

11 “(iii) the LRTAP POPs Protocol.

12 “(2) INTEGRATION WITH TSCA INFORMATION.—

13 The Administrator shall—

14 “(A) maintain a record that integrates the
 15 information in the notice published under para-
 16 graph (1) with any information published under
 17 section 6(h) of the Toxic Substances Control
 18 Act (15 U.S.C. 2605(h));

19 “(B) update the record as necessary; and

20 “(C) make the record publicly available.”.

21 **SEC. 205. CONFORMING AMENDMENTS.**

22 The table of contents in section 1(b) of the Federal
 23 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
 24 prec. 121) is amended—

25 (1) in the items relating to section 2—

1 (A) by striking the item relating to sub-
 2 section (bb) and inserting the following:

“(bb) Unreasonable adverse effect on the environment.

“(1) In general.

“(2) Public health pesticides.”;

3 and

4 (B) by adding at the end the following:

“(pp) Conference.

“(qq) Executive Body.

“(rr) LRTAP Convention.

“(ss) LRTAP POPs pesticide.

“(tt) LRTAP POPs Protocol.

“(uu) POPs Convention.

“(vv) POPs pesticide.

“(ww) POPs Review Committee.”;

5 (2) in the items relating to section 3, by strik-
 6 ing the item relating to subsection (b) and inserting
 7 the following:

“(b) Exemptions.

“(1) In general.

“(2) POPs pesticides.”;

8 and

9 (3) in the items relating to section 17, by strik-
 10 ing the items relating to subsection (e) and inserting
 11 the following:

- “(e) POPs Convention.
 - “(1) Prohibition on specified POPs pesticides.
 - “(2) Prohibition on other POPs pesticides.
 - “(3) Exemptions.
 - “(4) Certification statement accompanying POPs pesticides.
 - “(5) Submission of information.
- “(f) LRTAP POPs Protocol.
 - “(1) Prohibition on specified LRTAP POPs pesticides.
 - “(2) Prohibition on other LRTAP POPs pesticides.
 - “(3) Exemptions.
 - “(4) Certification statement accompanying LRTAP POPs pesticides.
 - “(5) Submission of information.
- “(g) Notice and record of prohibitions, exemptions, and other information.
 - “(1) In general.
 - “(2) Integration with TSCA information.
- “(h) Regulations.”.

